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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Summary or arbitrary executions

Report by the Special Rapporteur, Mr. S. Amos Wako, pursuant to Commission on Human Rights resolution 1990/51

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INTRODUCTION

1. The present report is submitted pursuant to Commission on Human Rights resolution 1990/51 of 6 March 1990 entitled "Summary or arbitrary executions". This is the ninth report of the Special Rapporteur to the Commission on Human Rights on the subject.

2. In his eight previous reports (E/CN.4/1983/16 and Add.1, E/CN.4/1984/29, E/CN.4/1985/17, E/CN.4/1986/21, E/CN.4/1987/20, E/CN.4/1988/22 and Add.1 and 2, E/CN.4/1989/25 and E/CN.4/1990/22 and Add.1), the Special Rapporteur dealt with and examined the various aspects of the phenomenon of summary executions, including legal and theoretical issues.

3. The present report opens in chapter I with a summary of the activities undertaken by the Special Rapporteur over the past year. Chapter II describes country-specific situations in which the Special Rapporteur has invoked his mandate: in part B thereof, the Special Rapporteur describes urgent appeals and other communications transmitted to Governments, together with any replies or observations received from them. The Special Rapporteur hopes that he has presented a comprehensive picture of the situation in each country.

4. In chapter III, the Special Rapporteur sets forth the legal and analytical framework within which he carried out his mandate. Finally, in chapter IV the Special Rapporteur sets forth his conclusions, highlighting four issues: (1) death threats, (2) deaths in custody, (3) executions following inadequate trial or judicial procedures, and (4) extra-legal executions within the context of situations of internal conflict.

5. Based upon his analysis of the information received, the Special Rapporteur closes his report with a number of recommendations designed to more effectively ensure, in future, respect for the international instruments and standards to which his mandate refers.

I. ACTIVITIES OF THE SPECIAL RAPPORTEUR

A. Consultations

6. The Special Rapporteur visited the Centre for Human Rights, United Nations Office at Geneva, in July and October/November 1990 for consultations with the Secretariat and again in January 1991 to finalize his report.

B. Communications

1. Information received

7. In the course of his present mandate, the Special Rapporteur received communications containing information concerning summary or arbitrary executions from Governments, non-governmental organizations and individuals. The amount of communications has increased every year.

8. Information of a general nature was received from the Governments of Brunei Darussalam, Colombia, Cuba, China, El Salvador, Kenya, Mauritania, Myanmar, Pakistan, Romania, Rwanda, Sri Lanka, United Republic of Tanzania and Yugoslavia.

9. Information of a general nature and/or concerning specific allegations of summary or arbitrary executions was received from the following non-governmental organizations in consultative status with the Economic and Social Council: Amnesty International, Andean Commission of Jurists, Anti-Apartheid Movement, Arab Lawyers Union, Commission of the Churches on International Affairs of the World Council of Churches, International Association of Democratic Lawyers, International Commission of Jurists, International Commission of Health Professionals, International Committee of the Red Cross, International Confederation of Free Trade Unions, International Defence and Aid Fund for South Africa, International Federation of Human Rights, International Federation Terre des Hommes, International League for Human Rights, International Organization of Journalists, Pax Christi - International Catholic Peace Movement, Pax Romana - International Catholic Movement for Intellectual and Cultural Affairs, Regional Council on Human Rights in Asia, Union of Arab Jurists, Women's International Democratic Federation.

10. In addition, information concerning alleged cases of summary or arbitrary executions was received from a number of regional, national and local non-governmental organizations, groups and individuals in various parts of the world.

2. Allegations of summary or arbitrary executions

11. In the course of his mandate, the Special Rapporteur sent cables and letters to Governments concerning allegations of imminent or actual summary or arbitrary executions in their countries.

12. In reply to the Special Rapporteur's cables and letters, a number of Governments provided him with information and observations concerning the allegations. For the sake of the preparation in time of the present report, the Special Rapporteur was obliged to leave the Government replies which reached him after 15 January 1991 to his next report.

(a) Urgent appeals

13. In response to information containing allegations of imminent or threatened summary or arbitrary executions which appeared prima facie relevant to his mandate, the Special Rapporteur addressed 64 urgent messages by cable to 25 Governments, appealing for the Government's protection of the right to life of the individuals concerned and requesting information concerning those allegations. These Governments are: Afghanistan, Brazil, Bulgaria, China, Colombia, El Salvador, Ethiopia, Guatemala, Honduras, India, Indonesia, Iran (Islamic Republic of), Iraq, Israel, Mexico, Nepal, Nigeria, Peru, Philippines, Romania, South Africa, Sri Lanka, Sudan, the Union of Soviet Socialist Republics and the United States of America.

14. Replies were received from the following Governments: Brazil, China, Colombia, Guatemala, India, Indonesia, Iran (Islamic Republic of), Iraq, Israel, Mexico, Peru, Philippines, Romania, Sudan and the United States of America.

15. In addition, replies were received from the following six Governments concerning the cables sent by the Special Rapporteur during 1989: Brazil, China, Mexico, Sri Lanka, Sudan and the Union of Soviet Socialist Republics.

16. These messages and the replies received are summarized in chapter II; the full texts are available for consultation in the Secretariat files.

(b) Requests for information concerning alleged summary or arbitrary executions

17. The Special Rapporteur also sent 61 letters to 45 Governments concerning alleged summary or arbitrary executions in their countries, as follows: Bangladesh, Brazil, Burkina Faso, Cameroon, Chad, China, Colombia, El Salvador, Ethiopia, Ghana, Guatemala, Haiti, Honduras, India, Indonesia, Iran (Islamic Republic of), Iraq, Israel, Malawi, Mali, Mauritania, Mexico, Morocco, Myanmar, Nepal, Niger, Nigeria, Papua New Guinea, Paraguay, Peru, Philippines, Senegal, Somalia, South Africa, Sri Lanka, Sudan, Suriname, Syria, Tunisia, Turkey, the Union of Soviet Socialist Republics, Venezuela, Yugoslavia and Zaire.

18. Replies were received from the following Governments: Bangladesh, Brazil, Burkina Faso, Ethiopia, Honduras, Indonesia, Iraq, Malawi, Mauritania, Mexico, Papua New Guinea, Peru, Philippines, Sri Lanka, Turkey, the Union of Soviet Socialist Republics and Yugoslavia.

19. In addition, replies were received from the following 10 Governments concerning the allegations transmitted by the Special Rapporteur during 1989: Brazil, Chile, Colombia, Indonesia, Philippines, Sri Lanka, Venezuela and Yugoslavia.

C. Joint hearings on southern Africa

20. The Special Rapporteur joined the Ad Hoc Working Group of Experts on southern Africa for hearings held in London, United Kingdom, from 20 to 24 August 1990. The information obtained at the joint hearings is reflected in chapter II, section B (paragraphs 454ff.).

II. SITUATIONS

A. General

21. The information received by the Special Rapporteur in the course of his present mandate includes allegations of executions or deaths which may have taken place in the absence of the safeguards designed to protect the right to life embodied in various international instruments, such as the International Covenant on Civil and Political Rights (arts. 4, 6, 7, 9, 14 and 15), the Standard Minimum Rules for the Treatment of Prisoners, the Code of Conduct for Law Enforcement Officials, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and Safeguards guaranteeing protection of the rights of those facing the death penalty adopted by the Economic and Social Council in resolution 1984/50 of 25 May 1984 and the effective prevention and investigation of extra-legal, arbitrary and summary executions, adopted by the Economic and Social Council in resolution 1989/65 of 24 May 1989.

B. Country situations

Afghanistan

22. On 7 May 1990, a cable was sent to the Government of Afghanistan concerning Seyed Hamza, son of Seyed Mahboob, who had reportedly been sentenced to death by a Special Revolutionary Court in April/May 1988 for his alleged involvement in an armed confrontation with the Government. It was reported that there was no judicial review of sentences passed by the Special Revolutionary Courts, and concern was expressed that his execution might be imminent.

23. The Special Rapporteur, referring to articles 6 and 14 of the International Covenant on Civil and Political Rights to which Afghanistan was a party and also to safeguards 5 and 6 of the annex to Economic and Social Council resolution 1984/50 of 25 May 1984 entitled "Safeguards guaranteeing protection of the rights of those facing the death penalty", appealed to the Government to make every effort to guarantee the right to life of Seyed Hamza and requested information on the above-mentioned case and, in particular, on the legal proceedings according to which this person had been sentenced to death.

24. At the time of preparation of the present report no reply had been received from the Government of Afghanistan.

Bangladesh

25. On 9 July 1990, a letter was sent to the Government of Bangladesh transmitting allegations that in 1988 and 1989 a number of persons died in police custody as a result of torture. It was said to be rare that impartial investigations were carried out by the authorities and that criminal charges were brought against security forces personnel.

26. The Special Rapporteur received information on alleged cases of death in detention as follows:

(a) On 2 June 1989, in Jessore District, Shahidul Islam died at the district hospital shortly after he was admitted to the emergency ward. Reportedly, Shahidul Islam was arrested from his home in Bara Bail Danga village on 31 May 1989 by the Kotwali police, Jessore district and was tortured at the Kotwali district police station by a police sub-inspector and other police personnel before being taken to hospital. According to a post-mortem report, his death was caused by "trauma in different parts of the body";

(b) On 7 February 1990, in Jessore District, Wazed Ali died at Kotwali police station as a result of torture. According to the official explanation, he committed suicide while he was in police custody;

(c) In late June 1989, a person named Ofazuddin, from Laduakunda village, Dhamrai District, was arrested and detained at the Dhamrai police station where he was tortured by a police sub-inspector during the interrogation. Ofazuddin died in Dhaka Medical College hospital a month later. A judicial inquiry was reportedly held on 27 September 1989, but the outcome was not yet made public;

(d) In June 1989, Khoka Mia, from Mukuddapur village, Kaharol sub-division, was arrested, together with several others, and detained at Kaharol police station, where he died as a result of torture. It was reported that eight policemen were charged for assault and murder at the Kaharol Sub-Divisional Magistrate's Court. The outcome of the trial was not known at the time of the receipt of the allegations;

(e) On 17 July 1988, in Kushtia, Kushtia district, Kumaresh Ghosh died at the Kushtia Sadar Hospital. According to the report received, he was apprehended and beaten by two policemen and a night watchman on 15 July 1988 while on his way home from a hotel where he had worked and was again beaten and kicked at the local police station before being taken to the main police station. The result of the post-mortem conducted on 17 July 1988 was not made public. According to the police, Kumaresh Ghosh died as a result of heavy beating by the night watchman, who had absconded.

27. On 16 July 1990, a reply was received from the Government of Bangladesh to the Special Rapporteur's above-mentioned communication, stating that the allegations were baseless. The reply gave the Government's account of each case as follows:

(a) Shahidul Islam: The deceased Shahidul Islam was arrested on 30 May 1989 in a criminal case for illegal possession of weapons (guns). During the detention, Shahidul Islam told the law-enforcement officials that he had been suffering from tuberculosis for some time and accordingly was sent to the hospital in Jessore for medical treatment. He died in hospital on 2 June. His father and his brother corroborated this fact. The post-mortem report said "there was no injury or trauma on his body" and the report was submitted to the judicial magistrate who confirmed the veracity of the post-mortem report. Though there was no evidence of misbehaviour on the part of the police officer, Faruqul Islam, he was, transferred from the Kotwali police station by the police administration;

(b) Ofazuddin: Ofazuddin was arrested on a charge of murder on 30 June 1989. During the time of his arrest, he tried to escape but the angry public caught him. As a result of violence Ofazuddin was injured. The police sub-inspector sent him to the sub-divisional hospital for medical treatment on 1 July 1989. The medical officer recommended Ofazuddin to be sent to Dhaka Medical College hospital for adequate medical treatment. He was in the Medical College hospital from 1 July to 17 July. On the submission of a written application by his father, Ofazuddin was granted bail and released. He died on 7 August 1989 under the care and attention of his father and close relations;

(c) Khoka Mia: There was a robbery at the homestead of Mr. Afazuddin in Mukandapur of Kaharol sub-division. After a lapse of several days, the police, on secret information, arrested on 6 June 1989 Khoka Mia along with six others. The police officials were rather rough and manhandled the accused, including Khoka Mia. Since Khoka Mia was suffering from high blood pressure, he was not feeling well and was sent to Kaharol hospital for treatment. On 7 June, he was again transferred to Dinajpur district hospital for further treatment. He died on 9 June in the hospital while undergoing treatment. The incident was reported to the higher police authorities and they immediately suspended and released all police officials - five officers and eight others - from service and constituted a judicial inquiry under section 176 of the Penal Code. The case is under investigation by the judicial magistrate;

(d) Wazed Ali: Wazed Ali was arrested on charges of robbery. During the time of his arrest, the public got very emotional and violence took place which caused injury to Wazed Ali. He died a few days after he had been sent to Jessore hospital for medical treatment;

(e) Kumaresh Ghosh: Kumaresh Ghosh, accused of theft, was caught on 15 July 1988 by an angry mob. As a result, Mr. Ghosh was injured and was sent to Kushtia Sadar hospital for treatment on the same day. He died on 17 July 1988 in hospital. The suspected culprit who had injured Mr. Ghosh has since absconded.

28. It was stated that the above clarifications would clearly show that none of them died in custody as a result of torture. It was further stated that in spite of the best intentions and the commitment of the Government, there were unavoidable situations which would arise due to the emotions of an angry public towards offenders, particularly in a developing country, where poverty often results in social tensions accompanied by violence and counter-violence. The Government, to the extent possible, would try its best to spread consciousness about basic human rights and fundamental freedoms among its citizens, many of whom were illiterate.

Brazil

29. On 23 May 1990, a cable was sent to the Government of Brazil concerning two priests, working in the south of Pará state, who had allegedly been threatened with death. According to the information, Fr. Robert Vallecourt, French parish priest of Nova Maraba, had been threatened on 30 April 1990 by the secretary of public works for Maraba municipality that he would be killed by the end of the year. Fr. Paulo Joanil, another priest and co-ordinator of the church land commission for Maraba region, had allegedly left the region

temporarily in December 1988 after the assassination of a state deputy in Pará. He had reportedly been under death threats because of his efforts to bring to trial those responsible for the killing of a 42-year-old man and his three-year-old son in a land dispute in Goianesia, Pará, in October 1987. It was further alleged that many of those appearing on "death lists", drawn up by landowners, had subsequently been killed, without the authorities having taken steps to investigate the death threats or protect those threatened. Many of these killings were said to have been carried out with the acquiescence of the local authorities. Recent examples of such killings allegedly included Altenir Carvalho, aged 31, a trade unionist leader of the Piquia estate, Maraba, shot dead on 24 March 1990 and a posseido named Domingos shot dead on the Jandaia Estate, in Curionopolis municipality, in April 1990.

30. In this connection, the Special Rapporteur, having taken note of the position of the Government of Brazil expressed in its previous communications addressed to him that only those cases in which Government officials were actually involved were considered as summary or arbitrary executions, reiterated his view in this regard that the State has the primary responsibility to ensure that the right to life of those under its jurisdiction is protected in every possible manner. Therefore, he appealed to the Government to take all necessary measures to protect the safety of the persons concerned, and requested information on the measures taken to protect the above-mentioned priests and also on the investigation carried out by the authorities on these cases.

31. On 14 June 1990, another cable was sent to the Government of Brazil concerning four persons who had allegedly been threatened with death since March 1990 in Xapuri, Acre state. They were said to be: Ilzamar Mendes and José Alves Mendes Neto, respectively widow and brother of Francisco Mendes; Jorge Gomes Pinheiro, President of Xapuri rural workers trade union; and Francisco de Assis Monteiro de Oliveira, President of the Xapuri rubbertappers' co-operative.

32. According to the information, two persons had been indicted for the murder of Francisco Mendes and were awaiting the jury trial scheduled to take place in Xapuri in June 1990. Since March 1990 when relatives of the accused persons had arrived in Xapuri, the number of threats against the above-mentioned four persons and others, including witnesses and potential jurors in the trial, had allegedly increased.

33. The Special Rapporteur also referred to information he had received regarding trade unionists from several towns in Acre state, including Brazileia, Xapuri and Rio Branco, who had been threatened with death for the attempt by the rural workers union to prevent deforestation in areas decreed to be under special Government protection. The names of nine persons among those trade unionists who had been threatened with death were transmitted.

34. In this connection, the Special Rapporteur, emphasizing the fact that the State has the primary responsibility to ensure that the right to life of those under its jurisdiction is protected in every possible manner, therefore appealed to the Government of Brazil to take all necessary measures to protect the safety of the persons concerned and requested information on the measures taken by the Government to protect the above-mentioned persons and also on the investigation carried out by the competent authorities in this regard.

35. On 6 July 1990, a letter was sent to the Government of Brazil transmitting the following allegations:

(a) During the past year several persons were killed in incidents implicating the direct or indirect involvement of the police force. The following case was reported:

(i) On 14 October 1989, Francisco Ecliodo Bezzera da Silva, aged 24, and his brother Francisco Herminio Bezzera, aged 21, rubbertappers in Manuel Urbano, Acre state, were taken into custody by five police officers. The two were then taken by the police officers by canoe down the river Purus. The two men had not been seen since and the police reportedly gave contradictory explanations, first saying that the two men had committed suicide by throwing themselves into the river, and later that the canoe overturned and the two had drowned. However, witnesses reported that they saw the police rowing downstream in the canoe claimed to have been lost. Another witness reportedly saw a body floating in the river. The authorities were said to have opened civil police and military police inquiries into the alleged incident and related allegations of ill-treatment by the police, but the outcome of the inquiries had not been made public;

(b) Several persons were killed or threatened by gunmen hired by landowners in connivance with the local authorities. No effective measures were taken by the authorities to protect the life of those under threat or to arrest the perpetrators, and local police gave support to or tolerated the activities of groups known as justiceiros to the extent that the groups used official police vehicles for their operations. Several examples of such cases were reported as follows:

(i) On 22 April 1990, in Rio Maria, Pará state, four armed men in plain clothes claiming to belong to federal police abducted three brothers, Orlando Canuto Pereira, aged 25, José Canuto Oliveira, aged 27, and Paulo Canuto Oliveira, aged 19. Having been handcuffed, the three brothers were driven 60 kilometres north of Rio Maria. The kidnappers then shot at them, injuring Orlando Canuto Pereira who managed to escape and killing on the spot José Canuto Oliveira and Paulo Canuto Oliveira whose bodies were found on 23 April 1990. Prior to the above incident, on 3 April 1990, also in Rio Maria, Pará state, Braz Antonio de Oliveira and Ronar Rafael Centura were killed in the same manner after having been kidnapped by gunmen using the same car;

(ii) On 30 April 1990 in Vila Alice in Diadema, a town on the outskirts of São Paulo, Marcello Rosa de Oliveira, aged 17, was stopped by a group of armed men in civilian clothes and was shot dead along with his older brother, Marcos Rosa de Oliveira, aged 18. One hour later the same day and four kilometres away from the place of the above killings, Alexandre de Oliveira, aged 21, Andre de Oliveira, aged 18, Marcello Gonçalvo de Oliveira, aged 15, Osmar Zago Filho, aged 15, Emiliano Figuereido de Souza, aged 21, and Edilson dos Santos were forced by a group of four or five men to lie face down on the ground and were shot. Five of them were instantly killed and Edilson dos Santos was badly wounded;

(iii) On 2 June 1990, in Santa Fe, near Maraba, Pará state, Sebastiao Francisco da Silva, aged 51, leader of the Union of Rural Workers of Maraba, was shot dead by two men in civilian clothes outside his home. Da Silva had played an important part in defending the rights of a group of 85 peasant families to remain on the land inside the fazenda Donrada. INCRA, the government land agency, had granted the families permission to stay on the land in question. The manager of the fazenda Donrada was taken into custody by police and questioned about the killing, but the outcome of the investigation by the local police was not known.

36. On 13 July 1990, another cable was sent to the Government of Brazil concerning Raimundo Barros de Oliveira, a peasant, and Father Martin Murray, parish priest of Colinas, who had been threatened with death in Tocantins state. According to the information, a local landowner accused of having killed Raimundo Barros de Oliveira's brother, José, on 2 February 1990, was alleged to have publicly stated that he would kill the two men. Although the landowner was said to have confessed to having killed José Barros de Oliveira and to have threatened other peasants, he had been released from custody and was reported to move freely about the locality. Father Martin Murray was said to have been threatened in 1987 by a gunman and a military police sergeant for the help and advice he had given peasants in regard to a land dispute.

37. The Special Rapporteur added that since April 1990, armed gunmen allegedly contracted by the above-mentioned landowner had been threatening members of Raimundo Barros de Oliveira's community in the municipality of Guarai, in connection with a land dispute which the State appeals court had ruled in favour of the peasants. Despite complaints to the local authorities regarding these threats, there appeared to have been no action taken to prevent further assaults on the peasants.

38. In this connection, the Special Rapporteur appealed to the Government of Brazil to take all necessary measures to protect the safety of the persons concerned and requested information on the measures taken by the Government as well as on the investigation carried out by the competent authorities in this regard.

39. On 10 August 1990, a cable was sent to the Government of Brazil concerning Jocimar Borjes Da Silva, aged 18, who had reportedly been arrested on 20 June 1990 by two officials of the civil police in Ipatinga, State of Minas Gerais. He had been accused of theft but had denied the charge, as a result of which he had allegedly been brutally ill-treated. He had been released the next day, but the two officials had allegedly been threatening to kill him since his release.

40. In this connection, the Special Rapporteur appealed to the Government to take all necessary measures to protect Jocimar Borjes Da Silva and requested any information on the measures taken by the Government to protect the above-mentioned person and, in particular, on the investigation carried out by the authorities on this case.

41. On 5 November 1990, a letter was sent to the Government of Brazil transmitting the following allegations:

(a) It was reported that a recent study by the Brazilian Institute for Social and Economic Analysis revealed that death squads were responsible for most of the violent deaths of 457 children or adolescents killed in three Brazilian cities in 1989. In April 1990 the Rio de Janeiro police department reportedly admitted that half the city's identified squad members were police officers. Furthermore, members of the police on duty reportedly shot dead in a summary manner suspected petty criminals, often destitute street children or adolescents. It was also reported that during the period of 45 days up to 15 June 1990, in the "ABCD" region in Saõ Paulo, 37 killings by vigilante groups, known as justiceiros, were registered. In Recife, in the first three months of 1990, 144 cases of killings by death squads were reported. The following examples are illustrative of the allegations received:

(i) On 5 December 1989, Simone Amaral Cerqueira, aged 17, and Disney Erwin Rodrigue, aged 18, were found dead with signs of torture on a waste-tip on the outskirts of Nova Friburgo, Rio de Janeiro state, after having been abducted by five men in plainclothes, four of whom were later identified as members of the military police. Criminal proceedings were reportedly initiated against two military police officers, but the trial is allegedly not foreseen before 1991;

(ii) In February 1988, in the shanty town of Corto Oito in Duque de Caxias, Rio de Janeiro state, two teenage brothers, Aldenir Calisto Mendes and Magno Fernando Mendes, were abducted from their home by armed men claiming to be police. They were found shot dead next morning. It was alleged that the police was reluctant and slow to act, although their mother contacted the police immediately after the abduction. Their brother, Evandro Sergio Mendes, aged 19, allegedly implicated in the shooting of a military police officer, was shot dead on 2 January 1989;

(iii) On 23 November 1989, in Saõ Paulo, Marcelos Domingos de Jesus, aged 19, was shot dead in the metro by two military police officers. Although the police reportedly claimed that he had touched his belt in such a way as reaching for a gun, the boys who had been with him at the time of the killing claimed that one of the military police officers entered the metro carriage firing his revolver and that Marcelos Domingos de Jesus was hit in the head by a bullet;

(iv) On 22 March 1990, in Saõ Paulo, Tchai da Silva Ferreira, aged 14, was shot in the head when the police fired from an unmarked police patrol car which had been following the car carrying Tchai da Silva Ferreira and his friends. He died in hospital three hours later;

(v) On 25 March 1990, in Rio de Janeiro, Adriana Ceres Zago Buenes, aged 17, was shot dead by a police officer while she was riding pillion on a motor cycle. It was reported that when the driver did not stop at the police officer's signal, the police officer drew his gun, took aim and fired, hitting Adriana in the back;

(vi) On 25 October 1989, in Belém, Pará state, Jeremias de Souza Santos, aged 17, a mentally retarded deaf-mute, died in hospital after having been found suffering from convulsions. He had allegedly been arrested one month earlier by military police in Muaná, Pará state, and tortured with electric shocks in the police station for suspected membership in a youth gang which had been robbing local shops and businesses;

(vii) In May 1990, in the Greater São Paulo area, seven youths were killed by justiceiros. The seven were named as:

Marcello Rosa de Oliveira, Marcos Rosa de Oliveira, Alexandre de Oliveira, Andre de Oliveira, Marcello Goncalvo de Oliveira, Osmar Zago Filho, Emiliano Figueiredo de Souza;

(b) On 25 June 1990, Mário Davis, aged 19, and Damião Mendes, aged 39, two Macuxi Indians from Jibóia maloca, in the village of Santa Cruz, Roraima state, were allegedly killed by two hired gunmen while they were herding pigs. Before the killing, it was reported that the Macuxi community warned the authorities that gunmen had been threatening Indians with violence but that no action had been taken by the authorities. It was alleged that during the past years Macuxi Indians had been harrassed, threatened, arrested and beaten by police and employees of a landowner in the context of land disputes.

42. On 16 November 1990, a cable was sent to the Government of Brazil concerning Manoel Pereira da Silva, Director of the Rubbertappers, Smallholders and Rural Workers Union (SINPASA) of Rio Branco and other rubbertapper leaders in Acre state who had continuously been receiving death threats which had intensified as the trial approached of two men accused of murdering rubbertapper leader Chico Mendes on 22 December 1988.

43. According to the information received, Manoel Pereira da Silva had been receiving threats since July 1990 for his leadership role in attempting to stop deforestation by large ranch owners and lumbermen in and around the Figueira extractive reserve near Rio Branco. Requests for protection to the Governor's office and the State Secretary of Public Security were said to have been denied on the grounds that there was no proof of any crime being committed. It was also reported that in mid-September, after informing the federal police of the threats, Manoel Pereira da Silva went into hiding in Rio Branco.

44. Furthermore, the Special Rapporteur referred to the information he had received according to which Wolmer do Nascimiento, Rio co-ordinator of the Movimiento Nacional Dos Meninos e Meninas da Rua (National Street Children's Movement), and his two children, Ana Teresa do Nascimiento, aged 2, and Wolmer do Nascimiento Filho, aged 3, had received death threats since October 1990. On 5 November 1990, an unidentified man in plainclothes had reportedly approached him on Duque de Cazias street and put a gun to his back, warning him to stop his activities on behalf of street children and to stop denouncing death-squad killing of minors in the Rio de Janeiro metropolitan region. It has also been reported that activities of the death squads were supported or participated in by local police and that local and state authorities had been slow to investigate or prosecute suspected death squads crimes.

45. In this connection, the Special Rapporteur appealed to the Government of Brazil to take all necessary measures to protect the safety of the persons concerned and requested information on the measures taken by the Government to protect the above-mentioned persons as well as on the investigation carried out by the competent authorities on these cases.

46. On 29 November 1990, further to the above-mentioned communication, another cable was sent to the Government of Brazil stating that according to the information received, as the trial of the accused assassins of rubbertapper leader Chico Mendes was scheduled to begin on 12 December 1990, death threats against rubbertapper leaders in Acre state had intensified, including those against Osmarino Amancio Rodrigues, José Pereira da Silva, Abrãao dos Santos Cardoso and Amarildo Simedon. In the case of Osmarino Amancio Rodrigues, president of the Rural Workers Trade Union of Brasileia and secretary of the National Rubbertappers Council, who had been receiving death threats for more than a year, state authorities had reportedly refused to pay daily costs of police guards assigned to protect him.

47. In this connection, the Special Rapporteur reiterated his appeal to the Government of Brazil to take all necessary measures to protect the above-mentioned persons and requested information on the measures taken by the Government to protect the persons concerned as well as on the investigation carried out by the authorities on these cases.

48. On 8 January 1990, a reply was received from the Government of Brazil to the Special Rapporteur's letter of 30 October 1989 (see E/CN.4/1990/22, paras. 43 to 46) on the cases concerned.

49. According to the reply, those allegations continue to be under the consideration of the competent Brazilian authorities. The reply reiterated the Government's understanding that, notwithstanding the truth of the allegations and without prejudice to the findings of the Brazilian authorities, it considered as an alleged summary or arbitrary execution only those cases in which there was actual involvement of a Government official.

50. On 22 August 1990, a reply was received from the Government of Brazil to the Special Rapporteur's cable of 13 July 1990, stating that with regard to the situation of Mr. Raimundo Barros de Oliveira and Father Martin Murray, both of whose lives had allegedly been threatened in the town of Guarai, State of Tocantins, the Minister of Justice had sent a communication to the Secretary for Public Security of the State of Tocantins calling for the immediate adoption of measures to ensure the protection of the life and physical integrity of the two individuals.

51. On 8 November 1990, a reply was received from the Government of Brazil to the Special Rapporteur's letter of 5 November 1990 stating that the cases transmitted had been brought to the attention of Brazilian authorities.

52. With regard to the case of Simone Cerqueira Amaral, aged 17, the reply stated that the four military police involved in her killing were brought individually to trial and two were sentenced to three and a half years' and two and a half years' imprisonment.

53. On 28 November a further reply was received from the Government of Brazil to the Special Rapporteur's letter of 5 November 1990 and his cable of 16 November 1990, referring particularly to cases of killing of minors or those working for their protection. The letter stated that in the case of Wolmer do Nascimento, co-ordinator of the Movimiento Nacional dos Meninos e Meninas da Rua (National Street Children's Movement) and his family, the Ministry of Justice and the authorities of the State of Rio de Janeiro were requested to provide protection for Mr. Nascimento and his family.

54. It was also stated that following an extraordinary session of the Brazilian Council for the Defence of the Rights of the Human Person (CDDPH) on 21 November 1990, a commission was set up, entrusted with studying and proposing within 30 days ways to better integrate and co-ordinate activities of official governmental bodies and non-governmental entities with a view to adopting concrete measures to combat violence against Brazilian minors.

55. On 29 November 1990, a reply was received from the Government of Brazil to the Special Rapporteur's cable of 16 November 1990 regarding alleged death threats received by members of the Rubbertapper's Union of Rio Branco, Acre state, Manoel Pereira da Silva, Osmarino Amancio Rodrigues, José Pereira da Silva, Abrãao dos Santos Cardoso and Amarildo Simedon. It was stated that the Minister of External Relations had requested the Ministry of Justice to provide information and to take all necessary action by the Federal Government to ensure their protection.

56. On 7 December 1990, a reply was received from the Government of Brazil to the Special Rapporteur's cables of 16 and 29 November 1990, in addition to the information transmitted by the Government, stating that the Ministry of Justice had asked competent authorities in the State of Acre to provide information on the steps taken to ensure the physical integrity of the members of the rubbertappers union allegedly under threat of death and to take the necessary measures to provide protection.

57. On the same day, a further reply was received from the Government of Brazil to the Special Rapporteur's letter of 5 November 1990 transmitting information on two of the cases communicated in that letter.

58. According to the reply, the Council for the Defence of the Rights of the Human Person (CDDPH) had made inquiries into all the cases and at the same time had requested state Governors and other authorities to provide information on any investigations made at the state level into these cases.

59. With regard to the case of Jeremias de Souza Santos, the Secretary of Public Security of Pará state reported that investigations conducted by the Pará State Civil Police had proven the allegations of death as a result of torture by military police in Muaná, Pará state, to be groundless.

60. As regards the cases of Mário Davis and Damião Mendes, indigenous people of the Macuxi from Jiboira, Roraima state, it was stated that the Fundacão Nacional do Indio - FUNAI (National Foundation for the Indian) had confirmed the allegations and that the case was under investigation by the Federal Police.

61. On 12 December 1990, another reply was received from the Government of Brazil to the Special Rapporteur's cable of 29 November 1990 transmitting information regarding efforts made by the Acre state authorities to protect the life of Osmarino Amancio Rodrigues, Secretary of the National Rubbertappers Council.

62. It was stated that authorities of Brasiléia had requested Mr. Rodrigues to hold talks on measures to protect his life, but that he had left the region without informing the authorities. Police were instructed to look for him with a view to reaching with him an understanding regarding his security.

63. It was also stated that the Ministry of Justice again requested Acre state authorities to take all necessary steps to protect Mr. Rodrigues.

Bulgaria

64. On 16 March 1990, the Special Rapporteur sent a cable to the Government of Bulgaria concerning persons named Elin Madzharov, Altsek Chakarov and Sava Georgiev who had reportedly been sentenced to death on 25 April 1988 by the Supreme Court of Bulgaria for their involvement in bomb explosions in 1984 and 1985 which resulted in the death of eight persons, and who had allegedly not been allowed to appeal to a higher tribunal against their conviction or sentences.

65. The Special Rapporteur, having received new information that the three above-mentioned persons might be facing imminent execution, referred to his previous cable of 11 May 1988 concerning the above-mentioned persons and expressed his concern for their life and appealed to the Government to take all possible measures to ensure that their right to life was protected. He also referred to the International Covenant on Civil and Political Rights to which Bulgaria was a party, in particular article 14, paragraph 5 of the covenant providing that "Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law", and requested any information on those cases.

66. At the time of preparation of the present report, no reply had been received from the Government of Bulgaria.

Burkina Faso

67. On 11 July 1990, a letter was sent to the Government of Burkina Faso transmitting allegations that following a coup attempt on 18 September 1989, four persons accused of being the leaders of the coup plot were summarily executed. The four were named as follows: Commander Jean-Baptiste Lingani, Minister for Popular Defence and Security and First Vice-President of the Popular Front, Captain Henri Zongo, Captain Koundaba, Chief of the Military Transmission Service, and Sergeant Gningni, aide-de-camp of Commander Lingani.

68. On 5 November 1990, another letter was sent to the Government of Burkina Faso transmitting allegations that in early January 1990, Guillaume Sessouma, a teacher at the University of Ouagadougou and director of the Institut du Développement Rural in Burkina Faso, died as a result of torture in unacknowledged detention after having been arrested on 21 December 1989. Guillaume Sessouma was reportedly among a group of 31 people arrested in December 1989 in connection with an alleged conspiracy

against the Government. Although the Government reportedly claimed that four, including Guillaume Sessouma, had escaped from detention, unofficial reports claimed that Sessouma's body was not taken by security officials to a hospital in Ouagadougou in early January 1990, but taken away to the Conseil de l'Entente building in the capital.

69. On 19 December 1990, a reply was received from the Government of Burkina Faso to the Special Rapporteur's letter of 11 July 1990, stating that the aim of those who had undertaken the coup on 18 September 1989 was to overturn the national consensus that had been established since 15 October 1987 and to obstruct the constitutional order of the country. It was also stated that Commander Lingani and Captain Henri Zongo, instead of expressing their dissenting views, had resorted to a military operation which was unsuccessful.

70. It was further stated that in so far as the army was concerned, a competent court martial was seized with the case and that the court martial had made a judgement and delivered the sentences, which were eventually executed.

Cameroon

71. On 26 July 1990, a letter was sent to the Government of Cameroon transmitting allegations that in previous years, several prisoners had died due to harsh conditions in the central prison of Yaoundé, such as malnutrition and denial of medical treatment.

72. The Special Rapporteur referred to the information received according to which in December 1989, Captain Madam Dogo Aboubakar and Adjutant Pagoré, both imprisoned in connection with a coup attempt in 1984, had died in Nkondengui prison after ill-treatment and subsequent denial of medical treatment. Their bodies allegedly were not returned to their families.

73. Furthermore, the Special Rapporteur transmitted allegations that three persons, Hyacinthe Ebodé, Raymond Menga and Didier Onana, were sentenced to death by the Military Court for attempted murder and aggravated theft. The date of their conviction was said to be unknown. The military courts did not recognize the right to appeal to a higher tribunal.

74. At the time of preparation of the present report, no reply had been received from the Government of Cameroon.

Chad

75. On 26 July 1990, a letter was sent to the Government of Chad transmitting allegations that during the past eight years, a considerable number of prisoners, who had been accused of opposing the Government, died in custody as a result of torture, malnutrition or lack of hygiene and medical attention or were executed secretly without any legal proceedings.

76. The Special Rapporteur gave reported cases as follows:

(a) Saleh Gaza, a journalist, who was arrested in June 1987 and detained at the camp des martyrs, died in early 1988 in custody at another location as a result of ill-treatment;

(b) Asseila Ibrahim died in November 1988 due to a miscarriage which was said to be the consequence of torture inflicted upon her during detention at the Direction de la Documentation et de la sécurité (DDS) in N'Djamena;

(c) Bichara Chaïbo, former Deputy Director of the DDS, who had fled the country in late 1986, was executed without trial in September 1988, 10 days after he was forcibly repatriated from Togo.

77. In addition it was alleged that following an attempted coup by Zaghawa army officers in April 1989, Zaghawa villagers were summarily killed by Government troops during military operations in the north-eastern part of the country. It was further alleged that 100 members of the Zaghawa community were arrested during these operations and that a number of persons were executed secretly and without any legal proceedings, shortly after their arrest.

78. Furthermore, in the same north-eastern part of the country where armed opposition groups belonging to the Front Patriotique du Salut du Tchad (FPST) were active, in particular since October 1989, both civilians and Government soldiers were reportedly killed in March and April 1990 by Government forces in the border areas close to Sudan.

79. The Special Rapporteur described the following incidents:

(a) On 27 March 1990, when Government forces recaptured the towns of Bahaï and Tine from the rebel forces, many of the several hundred soldiers, who had been captured and left behind when the rebel forces retreated, were executed by Government forces, because of their alleged surrender without fighting;

(b) On 29 March 1990, in the town of Kouttoum in Sudan, Government forces executed seven injured men, suspected members of the rebel forces, in the courtyard of the hospital where the seven had been treated;

(c) On about 6 April 1990, in the town of Iriba, some 24 civilians were summarily executed after Government forces recaptured the town from the rebel forces. Those killed included Take Hissein and Noura Markoli, two sisters-in-law of Idriss Déby, the FPST's leader; Taille Djamous and Fatimi Haroun, the sister and niece of Hassan Djamous, a Zaghawa leader killed in April 1989; Mahamat Haroun Issa and Hissein Zakaria.

80. At the time of preparation of the present report, no reply had been received from the Government of Chad.

Chile

81. On 28 February 1990, a reply was received from the Government of Chile to the Special Rapporteur's letters of 24 July and 30 October 1989 (see respectively E/CN.4/1990/22, paras. 76 and 77) transmitting the following information on the cases submitted:

(a) Antonio Oviedo Sandoval Cares: At approximately 9.00 p.m. on 30 August 1988, at the corner of Avenida Santa Rosa and Venancio Leiva Street, unidentified passengers in a bus shot at a group of persons gathered around a

barricade and a bonfire at the junction. One of the shots hit Antonio Oviedo Sandoval Cares in the head. He was taken to Sótero del Río hospital where he died at 9 a.m. on 31 August. In view of the circumstances, the forty-first "La Pintaja" carabineros station filed a report on the incident with the eleventh criminal court in San Miguel, and carried out investigations. As a result, the driver of the bus from which the shots which killed Sandoval Cares were fired, was placed at the disposal of the above court. It had not so far been possible to identify the persons who fired the shots. Consequently, the version received by the Special Rapporteur did not correspond to the actual facts of the case, as no police personnel were present at the scene of the incident;

(b) Enrique Abelardo Moraga Múñoz: At approximately 4.30 a.m. on 10 December 1988, a corporal of the Directorate-General of carabineros was the victim of a theft committed by Mariano Antonio Espinoza Núñez, who snatched his wristwatch from his left hand. The corporal fired two shots into the air in order to stop the thief and managed to detain him. The detainee shouted for help and a group of persons came out of a nearby house and attacked the police officer, who identified himself as a carabinero and fired further shots into the air in a vain attempt to deter his aggressors. In view of the immediate physical threat he again fired in self-defence and hit Enrique Abelardo Moraga Múñoz, who died on the spot. The circumstances of Mr. Moraga Múñoz's death were being investigated by the eighteenth criminal court; the case was at the pre-trial stage;

(c) Jaime Quilán Cabezas: On 29 December 1988, three carabineros went to the Estrella de Chile settlement, Pudahuel municipality, in response to a radio message from the local police station. On arrival they found the corpse of Jaime Antonio Quilán Cabezas, who had died from a wound in his back, caused by a bullet which had lodged in his body. The identity of the person who fired the shot is unknown. Carabineros were not present when the incident took place, as alleged in the Special Rapporteur's letter;

(d) Guillermo Eugenio Rodríguez Solís: On 20 December 1988 an armed skirmish took place in front of No. 369 Manuel Rodríguez Street in Santiago between two groups of persons, one of which included Rodríguez Solís, who died from gunshot wounds in his thorax and abdomen. When the carabineros were informed of the incident, they immediately reported it to the second military court in Santiago on the same date;

(e) Jorge Germán Maldonado Velázquez: On 20 January 1989 two carabineros from the Pablo Silva Pizarro local police station were patrolling in the Nuevo Amanecer settlement, where tension was particularly high, when they came upon a group of persons who started to throw stones at them, while simultaneously fleeing from the spot. The carabineros gave chase but were not able to apprehend them. Subsequently, on the orders of the unit covering the sector, the carabineros went to a home where they found Jorge Germán Maldonado Velázquez, suffering from a bullet wound. Mr. Maldonado Velázquez died while being taken to hospital. This incident led to a complaint being lodged with Santiago Military Court alleging that the two carabineros employed unnecessary violence. However, it has been established that at no time did they use their firearms, although it had so far not been possible to identify the person responsible for the crime. The carabineros in question made statements in connection with the proceedings before the fourth military prosecutor's department, and no evidence had been found to implicate them;

(f) Jecar Neghme: At 9.40 p.m. on 4 September 1989 personnel from RP-466 (radio patrol car), under the orders of a sergeant of the No. 30 radio patrol station went to investigate gunshots in the block between Bulnes Street and Alameda Bernardo O'Higgins. They found a person lying on his back on the pavement. An identity card showing the name of Jecar Antonio Neghme Cristi was found on the corpse. There were 18 gunshot wounds in different parts of the body, and according to information provided by the murder squad of the Chilean Police Department, 12 of the gunshot wounds had been made by 7.65-mm bullets and the remainder were exit holes made by the same bullets, which had been the cause of death. Pamphlets bearing the inscription "Por traición a la lucha revolucionaria y al pueblo amarillo burgués" (For betraying the revolutionary struggle and the yellow bourgeois people), were found next to the corpse, whose clothes contained several documents notifying the victim of meetings of his political group. Accordingly, the 3rd central police station reported the murder by shooting to the 4th criminal court in Santiago which was investigating the case. The radio patrol officers who went to the scene of the crime only reported the death of Neghme Cristi and the fact that the scene of the crime was deserted. Consequently, the carabineros had no evidence that the "surrounding buildings were under the control of armed men in civilian clothing", as alleged in the letter sent by the Special Rapporteur;

(g) Salvador Fidel Cautivo Ahumada: At approximately 10.20 p.m on 31 December 1988, carabineros personnel went to the Tucapel roundabout in Arica, where a group of 10 individuals were painting Communist Party slogans. When they arrived the persons in question fled, while another unidentified group of individuals opened fire on the policemen from the upper part of the roundabout. The carabineros returned fire with their own weapons in self-defence, and shot at their aggressors although they failed to hit them. As a result of this incident, a sergeant of the 3rd Arica carabineros station suffered serious gunshot wounds. Subsequently, the 22-year-old sister of Salvador Fidel Cautivo Ahumada, 26 years of age, brought him to the local emergency unit. Mr. Salvador Fidel's chest had been pierced by a gunshot wound from which he died in hospital. It was ascertained that Salvador Fidel and his two sisters had been painting the slogans mentioned above when, according to their own statements, shots were fired at them as they fled from the carabineros, from a coffee-coloured Sports Wagon pickup, which was passing by. The brother was hit by one of the shots;

(h) Edison Freddy Palma Coronado: This person died at approximately 8.30 p.m. on 30 August 1988 on Avenue Grecia at the Ictinos intersection, during a street demonstration, as a result of gunshots fired by unidentified civilians from a private vehicle. The complaint filed with the 4th military prosecutor's department was lodged against persons responsible, and no accusation has been made against the carabineros in connection with the crime. The incident was connected with an attempt by a crowd to storm a local house, and when carabineros arrived at the scene they merely took down a complaint that a person had been killed as a result of the incident. Consequently, the allegation made in the Special Rapporteur's letter that the person in question "was mortally wounded by a police officer", is not a true reflection of the facts.

China

82. On 27 February 1990, the Special Rapporteur sent a cable to the Government of China referring to his cable of 10 June 1988 (see E/CN.4/1990/22, paras. 68 and 69) and to his letter of 26 April 1989 (see E/CN.4/1990/22, paras. 83 and 84), in which he mentioned the case of a person named Lobsang Tenzin, who had reportedly been arrested in connection with the killing of a Chinese policeman during the demonstration on 5 March 1988, and who was said to have been sentenced to death on 19 January 1989, with suspension of execution for two years.

83. As the two-year period of suspension ended on 5 March 1990, two years after his alleged crime, the Special Rapporteur received expressions of concern that Lobsang Tenzin might be facing imminent execution. He also reiterated his previous appeal to the Government to take all measures to protect the right to life of Lobsang Tenzin, in view of the allegation that before and during the trial the defendant had not been provided with the safeguards intended to ensure the rights of the defendant including the right to be presumed innocent until proved guilty, the right to a fair and public trial by an independent and impartial tribunal, the right to have adequate time and facilities for the preparation of his defence and the right to examine or have examined the witnesses against him.

84. On 28 May 1990, another cable was sent to the Government of China concerning three Tibetans named Migmar Tashi, Dama and Dhundup Tsering who, according to an official announcement on 18 May 1990, had been sentenced to death on 17 May 1990 by the Lhasa City Intermediate People's Court for "organizing a prison escape scheme in a planned way". It was also reported that while the death sentence on Dhundup Tsering had been suspended for two years, the death sentences on the other two had been to be executed immediately, and that articles 96 and 103 of the Chinese criminal code provided that those who commit the counter-revolutionary offence of organizing a jailbreak may be sentenced to death when the harm to the State was especially serious and the circumstances especially odious.

85. According to the allegations received by the Special Rapporteur, the proceedings in the court had not guaranteed the rights of the defendants as provided for in article 14 of the International Covenant on Civil and Political Rights, although the Chinese criminal procedure might have been strictly followed. These rights included: the right to a fair and public hearing by a competent, independent and impartial tribunal established by law, the right to legal counsel, the right to examine, or have examined, the witness against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him, the right not to be compelled to testify against himself or to confess guilt, and the right to his conviction and sentence being reviewed by a higher tribunal according to law.

86. In this connection, the Special Rapporteur, having received expressions of concern about the fate of the above-mentioned two persons, requested information concerning the two and in particular regarding the trial proceedings by which the three Tibetans might have been sentenced to death.

87. On 1 November 1990, a letter was sent to the Government of China transmitting the allegations contained in the following paragraphs.

88. On the basis of Chinese media reports it was alleged that over 720 death sentences were imposed between January and August 1990 and in 650 cases stay of execution was not granted. A total of 350 death sentences without stay of execution were reportedly given in June and July shortly after the start of an anti-crime campaign. Over 270 executions were reported to have been carried out. Official statistics on the death penalty and the exact number of executions reportedly have not been made public. Some of those sentenced to death were said to have been paraded around cities in the back of trucks. In this connection reference was made to a Circular of 24 July 1984 of the Supreme People's Court entitled "On the Strict Interdiction to Parade in the Streets When Carrying Out Death Sentences". It was also reported that death sentences were announced at mass rallies and that the convicted persons were often executed immediately afterwards.

89. According to some reports, the criminal code provides for the death penalty for 38 offences, including those which do not necessarily involve the use of violence, such as smuggling, theft and embezzlement. In July 1990, new regulations reportedly added as capital offences the production, distribution, smuggling or selling of "obscene products" in quantity.

90. It was alleged that the judicial procedure did not ensure the guarantees for a fair trial and the protection of the rights of the defendant. This was said to include the practice known as "verdict first, trial second" which consisted in "adjudication committees", set up in each court to supervise judicial work, examining cases and taking a "decision" before a formal trial was held. The adjudication committees were reportedly made up of judicial officials and Party members. The principle of the presumption of innocence as provided for in article 14 of the International Covenant on Civil and Political Rights allegedly was not ensured in this practice. In addition, political considerations were reported to have interfered in the activities of courts which were said to have little discretion in deciding on punishment, once charges against a defendant are formulated. Reference was made, by way of example, to a sentencing guideline in robbery cases, issued by central institutions including the Supreme People's Court and the Supreme People's Procuratorate, making the death penalty mandatory, whereas under the Criminal Law, the death penalty is not a mandatory punishment.

91. It was further alleged that defence lawyers were not made available in the majority of criminal cases and that in death penalty cases, lawyers were constrained by the strict time limit set under the 1983 decision amending the Criminal Procedure Law, concerning the delivery of the bill of prosecution, summons and notices and also for appeals against a judgement. In practice, lawyers reportedly had no more than one or two days to study the details of a case and to meet the defendant. The lack of independent status of lawyers was allegedly also a factor contributing to the lack of fair trial proceedings;

92. Further to the Special Rapporteur's letter of 26 April 1989 and its annex containing a summary of allegations concerning the incidents in March 1989 in Lhasa, Tibet Autonomous Region, additional information was received concerning the same incident. According to the information, a report of 11 March 1990 from the Public Security Bureau and the Tibet Military District Command to the Autonomous Party Committee indicated that over 450 Tibetans were killed as of 10 March, the majority of them as a result of bullet wounds. It was alleged that the authorities deliberately created conditions conducive to the

punitive exercise of armed force by the security forces, in particular by the People's Armed Police, that on the morning of 5 March 1989, the Armed Police were instructed to arrange for agitators to burn down named buildings and that on the morning of 6 March, the Armed Police were instructed to kill anyone resisting arrest without further consideration.

93. On 16 January 1990, a reply was received from the Government of China to the Special Rapporteur's cable of 2 November 1989 (see E/CN.4/1990/22, paras. 98 and 99) stating that the Decision regarding the procedure for prompt adjudication of cases involving criminals who seriously endanger public security, a law passed at the second meeting of the Standing Committee of the Sixth National People's Congress of the People's Republic of China on 2 September 1983, was a supplement to the Criminal Procedure Law. It provided that in cases of criminals who cause explosions or commit murder, rape, robbery or other crimes seriously endangering public security and who are punishable by death, where the main facts of the crimes are clear, the evidence is conclusive and the popular indignation is exceedingly great, the restrictions provided in article 110 of the Criminal Procedure Law regarding the time limit for the delivery of a copy of the bill of prosecution and the time limit for the delivery of the summons and notices may be overstepped, and that the time limit for an appeal or a protest against a judgement shall be changed to 3 days from 10 days. It was also stated that it was so decided because the main facts of the crimes committed by the aforementioned criminals could be easily and quickly verified and ascertained and some criminals were caught red-handed, hence the unlikelihood of misjudgement; it was therefore possible to have such cases tried promptly. According to the reply, this procedure was not applicable to cases which are complicated and where the main facts of the crimes are not yet entirely clear. It was stated that criminal cases, other than those provided for by the Decision, were still to be handled in line with the procedure stipulated in the Criminal Procedure Law and that while shortening the time-limit for the delivery of the bill of prosecution, summons and notices as well as the time limit for appeal and protest, the Decision by no means deprived the defendants of their rights to defence, appeal and all other rights of litigation which they would enjoy according to law during the criminal proceedings.

94. It was further stated that in mid-June last year, in handling the two vicious cases which took place in Beijing and Shanghai, the Procedure of Prompt Adjudication was adopted, because the accused in both cases had committed crimes in broad daylight and also because their crimes were serious and evidence was conclusive, that the adjudication of the two cases was in full conformity with the laws in China, and that the legal procedure was strictly followed. It concluded that the problem of "interference from political bodies" simply did not arise.

95. On 17 January 1990, another reply was received from the Government of China concerning the unrest in March 1989 in Lhasa, Tibet Autonomous Region, stating that the aim of the rioters was to use violent means to break up China and to destroy its ethnic harmony. It was also stated that after quelling the riot, the judicial authorities of Tibet arrested and brought to trial some 400 people, that over 300 were released after re-education and that 63 criminal elements were given sentences. However, according to the letter, not one was executed and the claim that some Tibetans were summarily executed for taking part in political activities was absolutely groundless.

96. On 20 March 1990, a reply was received from the Government of China to the Special Rapporteur's cable of 27 February 1990, stating that Lobsang Tenzin who participated in the Lhasa riot on 5 March 1988 was the chief murderer of Tibetan policeman Yuan Shisheng and was thus sentenced to death with a two-year reprieve by the Lhasa People's Court of the Tibetan Autonomous Region on 19 January 1989 and that the trial was carried out strictly according to the judicial procedure of the country. It was stated that the allegation that Lobsang Tenzin might be facing imminent execution was groundless.

97. On 1 August 1990, a reply was received from the Government of China to the Special Rapporteur's cable of 28 May 1990, stating that Migmar Tashi and Dama were sentenced to death with a two-year suspension of execution for intentional homicide in August 1987 and April 1988 respectively by the Intermediate People's Court of the Lhasa Municipality of the Tibet Autonomous Region, that Dhundup Tsering was sentenced to death for rape and homicide in September 1983 by the Intermediate People's Court of the Lhasa Municipality of the Tibet Autonomous Region, and was later resentenced to death with a two-year reprieve and that in January 1986, his sentence was changed to life imprisonment according to a criminal judgement by the Higher People's Court of the Tibet Autonomous Region.

98. It was stated that while serving prison terms for suspension of execution or life imprisonment, Migmar Tashi, Dama and Dhundup Tsering, in collusion with other criminals, organized clandestine jailbreaks on a number of occasions, that following trials by the Higher People's Court of the Tibet Autonomous Region, a criminal judgement was made on 7 May 1990 in accordance with the provisions of article 46 of the Chinese Criminal Procedure Law and paragraph 2, article 153 of the Chinese Criminal Procedure Law, and that Migmar Tashi and Dama were executed. It was also stated that according to the provisions of articles 23, 53, 63, 96 and 103, the Intermediate People's Court of Lhasa municipality of the Tibet Autonomous Region sentenced Dhundup Tsering to death with a two-year suspension of execution for committing the crime of organizing jailbreaks on 14 May 1990.

99. It was stated that China had not yet acceded to the International Covenant on Civil and Political Rights and was not bound by the provisions of the Covenant. However, according to the reply, the rights of criminal defendants under the Covenant are fully embodied in China's criminal law and criminal procedure law and related laws. It was stated that the trials of the above-mentioned three cases were conducted strictly in accordance with the procedure process as provided in the Chinese criminal law and criminal procedure law, fully ensuring the rights of procedure of the defendants.

Colombia

100. On 1 March 1990, the Special Rapporteur sent a cable to the Government of Colombia concerning death threats against Father Guillermo Correa, a priest at El Charco, Nariño department, and leader of the local civic movement, and the journalist Jim Preston, also a leader of the movement, secretary of the Buenaventura Human Rights Committee and candidate in the March 1990 municipal elections, whose names were reported to have appeared in a list of persons to be murdered in mid-February 1990. According to the information, in the preceding few months, several members of the civic movement had been threatened and one of them, Segundo Olaya, was murdered on 16 February 1990.

101. The Special Rapporteur appealed to the Government to take all measures at its disposal both to protect the lives of the above-mentioned persons and to ensure that the killing was investigated, and requested information in that regard.

102. On 26 March 1990, another cable was sent to the Government of Colombia concerning the allegation of the murder by hired killers of Dr. Jaramillo Ossa, Patriotic Union Senator and candidate for the office of President of the Republic, and of about 70 members of this Party during the first three months of 1990. According to the information, in the case of Dr. Jaramillo, the hired killers had entered the airport in Bogotá carrying weapons, despite the searches to which passengers had been subjected by the security forces.

103. In his cable, the Special Rapporteur also referred to the information that over 1,000 members of the Patriotic Union had been killed since its establishment.

104. In this connection, the Special Rapporteur appealed to the Government to make every possible effort to protect the life of the members of this Party, and asked for any information on the investigations into the case of Dr. Jaramillo.

105. On 29 March 1990, another cable was sent to the Government of Colombia concerning death threats against Jorge Alberto Restrepo Pérez, Mayor of Segovia, Antioquia, and the other inhabitants of this town. According to the information, on 28 February 1990, municipal employees had caught a person in civilian clothes as he had been writing out one of these death threats. He had also been carrying documents which had identified him as a soldier in the Bombona battalion stationed outside the city. That night, uniformed soldiers had allegedly been seen painting the walls with slogans that threatened the inhabitants with a repetition of the November 1988 massacre if they voted for Patriotic Union candidates in the congressional and municipal elections. Local authorities were said to have requested the Government attorney to send a commission to Segovia to investigate these threats.

106. The Special Rapporteur appealed to the Government to take all measures at its disposal to protect the lives of the above-mentioned persons and requested information in this regard.

107. On 17 July 1990, a letter was sent to the Government of Colombia transmitting allegations that in the grave situation of violence in the country during the first six months of the year a large number of persons were killed, including members of leftist political groups, unions, peasant and indigenous leaders. The responsiblity for a majority of the killings was attributed to the Government, either for having directly participated or for not having taken the necessary measures to prevent such killings or sanction those responsible.

108. The phenomenon of killings by hired assassins paid by drug traffickers continued to be reported, particularly in heavily militarized zones where traffickers allegedly counted on military acquiescence.

109. During the first three months of the year no fewer than 112 persons were victims of political assassinations. Cases were reported as follows:

(a) Carlos Pizarro Leongómez, presidential candidate, was assassinated at 9.15 a.m. on 26 April 1990 by an individual with a machine gun minutes after his plane took off from the Bogotá airport. He was on a campaign trip, and warned of a possible attack, had taken a flight two hours later than originally scheduled;

(b) Father Tiberio Fernández, aged 40, priest in Trujillo, disappeared on 17 April 1990 with three other persons on his way to mass in Tulua. On 23 April his body was found, decapitated and with signs of torture. He had previously received death threats for his activities in support of peasant families of detainees/disappeared by the military;

(c) Bernardino Prieto, aged 55, member of the Patriotic Union (UP); Eugenio Prieto; Horacio Prieto; Jacinto Zea, aged 60, member of the UP; José Antonio Zea; Omery Montoya, member of the UP, inhabitants Ariari, department of Meta, were detained on 24 February 1990 in their homes by approximately 15 men dressed in military uniforms and two dressed in civilian clothes and assassinated. Eyewitnesses claimed to have seen the assassins leaving the Twenty-first Battalion Vargas attached to the Seventh Army Brigade based in Villavicencio, Meta;

(d) Fredy Pérez, aged 15; Jaime Beltrán, aged 17; Eliecer Suarez, aged 20; Saúl Ortiz, aged 22, four members of the indigenous community Patio Bonito on the San Andrés de Sotavento, Córdoba reservation, were detained on 24 January 1990 by 10 uniformed policemen in the presence of eyewitnesses. The following day their bodies were found with signs of torture in the community of Cacaotal on the road between San Andrés and Chinú. The case was reported to the Attorney-General;

(e) Diana Cardona Saldarriaga, lawyer, member of the Patriotic Union, mayor of the Apartado municipality, was abducted on 26 February 1990 from her parents' home in Medellín by armed men who claimed to be her bodyguards who had come to escort her to the plane to return to Apartado. The true bodyguards of the DAS arrived shortly after. Her body was found the same day on the road outside Medellín. She had previously received death threats from paramilitary groups from Urabá region;

(f) Mauricio Ramírez, Camilo Botero and Nohra Ruiz Fiórez, three members of the Patriotic Union, were killed on 28 February 1990 at a funeral for Diana Cardona Saldarriaga in Unguía City, department of Chocó, only metres away from the regional military base where soldiers took no action to avoid the killings or detain those responsible;

(g) Silvia Margarita Duzán Saenz, journalist, correspondent for the BBC; José Vargas Mateus, peasant leader, member of the Peasant Association of Carare; Miguel Barajas, peasant leader, member of the Peasant Association of Carare; Saúl Castañeda, peasant leader, member of the Peasant Association of Carare were killed on 26 February 1990 by armed men believed to belong to a paramilitary organization who shot them in a restaurant in La India, Cimitarra municipality, Santander. Ms. Duzán was interviewing the peasant leaders at the time;

(h) Marisela Margarita Cuello Villamíl, aged 17, Venezuelan citizen and José Julio Teherán, aged 24 were killed on 10 November 1989 by armed men dressed in civilian clothes in Cacerí municipality in the El Bagre militarized region of Antioquia department. Military authorities claimed they were killed in an armed confrontation. Mrs. Cuello had been detained on 23 January 1989 by army members who accused her of belonging to a guerrilla group and later released her without charges;

(i) Domingo Galuán Jiménez, Juan Bautista Díaz Ortiz, Edgar Benítez and Osvaldo Enrique Osuna were killed on 7 January 1990 by approximately 15 members of a paramilitary group in the Pueblo Nuevo Plaza, Necoclí municipality, Urabá, who opened fire on a group of Popular Front Party members campaigning for the municipal elections;

(j) Heriberto Espinoza, member of the Unión Sindical Obreva of Antioquia, member of the Popular Front, was assassinated on 15 December 1989 as he was leaving the union offices in Medellín. He had been an active negotiator for the banana workers of Uribá region in the National Union of Agro-industry Workers.

110. On 25 July 1990, a cable was sent to the Government of Colombia concerning Mrs. Elvia Urán, aged 60, and Mrs. Martha Luz Saldarriaga Vélez, a lawyer, both members of the "Héctor Abad Gómez" Permanent Committee for the Defence of Human Rights (CPDDH) of Medellín, Antioquia, who were alleged to have received anonymous telephone calls threatening them with death if they continued their human rights activities. Serious concern was expressed for the lives and the security of these people since, according to the reports, three successive presidents and one member of the CPPDH had been assassinated in 1987 and 1988, while another had disappeared and 15 had received death threats.

111. The Special Rapporteur appealed to the Government to take all measures at its disposal to protect the right to life of the two persons threatened with death, and requested information in this regard.

112. On 13 August 1990, another cable was sent to the Government of Colombia concerning Nelson Pinzón Guevara, a 26-year-old farm worker, who had been arrested on 17 July 1990 at La Colorada peasant community, municipality of Simocota, department of Santander, by members of the army's Nueva Granada battalion based in Barrancabermeja. According to the information, three days later he was shot and wounded and then taken to San Rafael de Barrancabermeja hospital, where he was held incommunicado and under military guard, and was not permitted to see his relatives or other persons.

113. It was further reported that this man's brother, Alonso Pinzón Guevara, was arrested and killed on 16 July 1990 at La Colorada by members of the above-mentioned battalion.

114. Fears were expressed for the life and safety of Nelson Pinzón Guevara owing to the execution of his brother, and also because he had received several reports from members of the rural communities that they had been forced by the army to take part in armed operations as guides and that some of them had been killed in clashes with guerrilla groups.

115. In this connection, the Special Rapporteur appealed to the Government to take all measures at its disposal to protect the life and the security of Nelson Pinzón Guevara and requested any information on the investigations carried out by the competent authorities in this regard, and in particular on the killing of Alonso Pinzón Guevara.

116. On 9 November 1990, another letter was sent to the Government of Colombia transmitting allegations of 47 killings and one attempted killing since April 1990. The victims were reported to be mainly union members, peasant and indigenous leaders and other unarmed civilians in regions where guerrilla groups were active.

117. The following cases were alleged to be attributable to paramilitary groups acting under orders of or with the connivance of the military.

(a) Union members

(i) John Jairo Galindo and John Edward Fandiño Correa, members of the National Union of Farmworkers (SINTRAINAGRO), who had been seen in a restaurant in Bogotá on 16 May 1990, found dead on 17 May 1990;

(ii) Julio César Arias Castaño, director of the Centro de Servicios Docentes del Municipio de Bolívar (Centre of Educational Association Services in the municipality of Bolívar) and member of the Asociación de Institutores de Antioquia, Central Unitaria de Trabajadores de Colombia (AIDA-CUT) Teachers' Association of Antioquia, Confederation of Colombian Workers, killed on 6 June 1990 on a public bus en route to Medellín;

(iii) Américo Torres Ibarguén and Claudio Benítez; members of SINTRAINAGRO-CUT and farm workers on the La Caridad plantation, separated from the other farmworkers and shot dead on 6 June 1990;

(iv) Pedro Pablo Ospina, member of the Unión Sindical Obrera (USO-CUT) and labourer on the Empresa Colombiana de Petróleos (ECOPETROL) (Colombian Petroleum Industries), killed on 6 June 1990 by a hired killer in Cali Valle as he boarded public transport. He had survived a previous attempt on his life in 1988;

(v) Silvio Valencia Medina, member of the Asociación de Institutores del Cauca (ASOINCA-CUT) (Teachers Association of Cauca), killed on 7 June 1990 in Popayán, Cauca;

(vi) Joaquín Galindo Orozco, member of the Movimiento Frente Popular, (Popular Front Movement), and Eugenio Galindo Orozco, also a member of the Popular Front Movement and secretary of education of a chapter of SINTRAINAGRO-CUT, killed on 6 June 1990 by hired killers in their home in the municipality of Apartado, Antioquia;

(vii) Héctor Mario López, Secretary-General of the Sindicato de Trabajadores de las Empresas Públicas de Cali, (SINTRAENCALI-CUT), (Union of Public Sector Workers of Cali), killed on 18 June 1990 in his home in Cali;

(viii) Apolinar Fabra, secretary of solidarity of SINTRAINAGRO-CUT, Carepa chapter, killed on 8 July 1990, killed in the workers' encampment of the Galicia Plantation in Carepa, Antioquia;

(ix) Jorge Alberto Echeverry and Emilio Copete, members of the Asociación de Institutores de Antioquia (ADIDA-CUT) (Teacher's Association of Antioquia), killed on 15 July 1990 in Medellín;

(x) Alvaro Gómez Padilla, superintendent of education for the Montería district, member of the Sindicato de Maestros (ADEMACOR-CUT) (Teachers' Union), killed on 15 July 1990 in his home in Montería, Córdoba;

(xi) Ramón Hernández and Fredy Enrique Mejía, members of SINTRAINAGRO-CUT, Puerto Wilches chapter, labourers at the Palmas Bucareli Company, taken by hired killers on 17 July 1990 from the company building;

(xii) Héctor Castro, Roque Jiménez and Leonel Sumaque, farmworkers on the La Alameda Plantation and members of SINTRAINAGRO-CUT, ambushed on 24 August on their way to work in Chigorodó, Antioquia;

(xiii) Roel Alvis, member of SINTRAVLORES-CUT, detained by members of the F-2 in August 1990 in Ibagué, Tolima. His body was found in Espinal, Tolima;

(xiv) Esteban Palmet Domínguez, director of the Middle School Institute in Apartado, Antioquia, killed on 26 October 1990 by hired killers while on his way home;

(xv) Luis Eduardo Calderón, member of the Sindicato de Trabajadores Agrícolas Cundinamarca, (Farmworkers Union of Cundinamarca) Ricaurte chapter, and member of the Unión Patriótica (UP), (Patriotic Union Party), killed on 27 October 1990 by hired killers on a street in Apartado, Antioquia;

(xvi) Pablo Antonio González, member of SINTRAINDUPALMA-CUT, and his driver, John Jairo Gómez, killed on 25 October 1990 in San Alberto, César;

(xvii) An attempt was made on the life of Leopoldo Calderón, labourer at the Centro de Producción de Ecopetrol, (Production Centre of ECOPETROL) and member of the Centrol Unitaria de Trabajadores de Colombia (CUT) (Confederation of Colombian Workers), on 9 September 1990 in El Llanito, after his name had appeared on a blacklist known as "La Gota Negra".

(b) Other cases of killings

(i) Henry Delgado, Luis Antonio Meza and Beatriz Elena Méndez, peasants, residents of Magdalena Medio, Santander, had been detained on 4 September 1990 and interrogated concerning their political activities. Meza was released but Delgado's body was found, with

signs of torture, the same day. Military authorities alleged he died in combat. On 10 September the bodies of Meza and his wife were deposited by members of the military in Barrancabermeja;

(ii) Jacinto Quiroga, aged 46, peasant leader, on 10 September 1990 by machine-gun volleys of the Brigada Móvil which surrounded his house in El Guamal, Bolívar municipality, Santander. Another peasant was wounded in the same incident;

(iii) Tomás Rodríguez, aged 40, member of the Indigenous Community of the Gran Cumbal Reservation, Naviño department, on 9 September 1990. He had been detained and tortured during an offensive of the Grupo Mecanizado Cabal de la Tercera Brigada del Ejército (attachment of the Third Army Brigade);

(iv) Silvie Feldmann, Swiss missionary, on 9 September during the Third Brigade offensive in Gran Cumbal, Nariño, while carrying out her duties as a nurse;

(v) María Zenaida García Gómez, aged 32; Luz Elida Duque García, aged 22; Ramón Evelio Rua, aged 38 and Horacio Graciano, aged 34, peasants from Puerto Valdivia, Antioquia, were detained by the Brigada Móvil del Batallón Girardot de la Cuarta Brigada de Medellín (the Girardot Mobile Brigade attached to the Medellín 4th Brigade) on 19 April 1990. On 23 April 1990 their bodies were found in a common grave in La Esperanza, bound and with signs of torture. According to the Commander of the 4th Brigade, they died in combat;

(vi) Germán Antonio Parada was detained on 29 July 1990 and taken to the San Francisco farm in San Orofre, Arboledas municipality, north of Santander. In August 1990, the commander of the 5th Brigade announced his death in an armed confrontation with the army;

(vii) Ricardo Henry Montenegro Paz, member of the Communist Party and President of the Municipal Council of Puerto Valdivia for the Union Patriótica (UP) (Patriotic Union), on 20 May 1990 in his home in Puerto Valdivia after publicly denouncing some killings in the region, attributing them to a paramilitary group known as "Muerte a Revolucionarios del Nordeste" (MRN) ("Death to the Revolutionaries of the North-East");

(viii) Edmundo Villamizar and Orlando de Jesús Ortega Chiqunque, aged 32, on 17 January 1990 in Mosquera city outside Bogotá, when the two men, for their own safety, were to meet secretly. The prosecutor had provided Orlando Ortega with special agents for his protection. He had been detained in La Picota prison for four years until his release on 10 November 1990;

(ix) Filemón Cala Reyes, a peasant, after having been threatened and detained by the army and paramilitary groups on several occasions, on 14 March 1990 in La Vereda Honduras Bajo, El Carmen municipality, Santander. His body was found with his throat slit;

(x) Osvaldo Recalde, member of the secretariat of the Committee for Solidarity ot Political Prisoners of Pasto, Nariño, on 22 August 1990 after denouncing to the Attornney General several peasant murders allegedly committed by paramilitary groups in Putumayo. His brother continued to receive death threats;

(xi) Ana Isabel Flores and her five minor children, José Agustín Olivares, Rafael Ayazo and Eido José Bravo, peasants, on 25 October 1990 in Tierra Alta, Córdoba.

(c) Cases of killings in the context of counter-guerrilla operations of the Luciano D'Luyar and Nueva Granada anti-aircraft battalions in the region known as "Bajo Simacota", El Carmen municipality, Santander

(i) Javier Francisco Cardona, on 7 July 1990 by the paramilitary group MAS;

(ii) Leonor Sarmiento, on 16 July 1990 by the army in the area known as "La Y";

(iii) Juan and Eliseo Caballero, detained on 10 February 1990 in Vereda Vizcaína Alta; their bodies were found days later by relatives;

(iv) Ariel Vargas Ardila, on 4 May 1990, thrown from a military helicopter in "Montebello" between Zapateca and Betulia.

118. On 3 December 1990 a cable was sent to the Government of Colombia stating that Father Rafael Martínez Mora, parish of Tiquiso, diocese of Magangui, municipality of Pinillos, department of Bolívar, had reportedly received death threats by the security forces operating in the region for having requested the Attorney General to investigate the possible responsibility of the flying squad in the murder, in a non-combat situation, of four civilians, and other acts of violence against the civilian population. This investigation was said to be under way. According to the information, the threats were the most recent in a long series of threats not only against Father Martínez, but also against his brother, Father Jesús Martínez Mora, who had reportedly been arrested by the army in 1988, and another priest who had recently arrived in the same parish.

119. It was further stated that concern had increased after it was learnt that two attacks in July 1990 had led to the murder, on 13 November, of German Antonio Redondo, secretary-general of the San Carlos Mill Trade Union (SINTRACAÑASUCOL), by two armed men in civilian clothes on a bus at Tulua. His fiancée, Gloria Amparo Viveros Lucumy, had apparently reported his death and was herself murdered at 12.30 p.m. on 19 November 1990 by men who shot her while riding motorcycles and then shot her at point-blank range a further eight times. Since these deaths occurred, five other unionists at San Carlos Mill were reported to have received death threats by telephone or by black-edged cards.

120. Furthermore, again in October and in the same region, several persons were reported to have been threatened and/or murdered by suspected members of the police or groups acting with the connivance of the armed forces. In particular, the bodies of Francesco Sapizabal, Luis Ciaskier and Jorge Ocampo from Cali had reportedly been found on 16 October 1990 in the Rio Cauca with signs of torture. Walter Jaramillo González, the doctor who had participated in the search and examination of the bodies, had also received threats.

121. Lastly, information was received about the attack on Mr. Antonio Rico Morales, president of the board of the Cocicoinpa co-operative, on 25 October 1990 at a village near Tulua.

122. In this connection, the Special Rapporteur appealed to the Government to take all measures at its disposal to investigate these cases and, in particular, to protect the life and the security of Father Rafael Martínez Mora, and requested any information on the measures taken as well as on the investigations carried out by the competent authorities in this regard.

123. On 5 January 1990, a reply was received from the Government of Colombia to the Special Rapporteur's letters dated 13 March 1989, 24 July 1989 and 6 October 1989 (see document E/CN.4/1990/22, paras. 116 to 120, para. 125 and para. 128, respectively) concerning the following cases:

(a) Francisco Mantilla Ojeda and Benjamin Sotelo: The case continued in the Fourth Court of Criminal Instruction of Ibagué to determine the possible responsibility of the two individuals detained;

(b) José Ivan Muños and Fidel Rojas: Proceedings were initiated and the investigation continued in Court No. 68 of Criminal Instruction of Chigorodó;

(c) Alejandro Cardona Villa: The First Prosecutor of Medellín initiated an initial inquiry;

(d) Luis Eduardo Yaga Cristancho: The case continued in the Fourth Court of Public Order of Villavicencio, where the First Prosecutor informed the Attorney Delegate for Human Rights that William Góngora, who had confessed to the killing, was assassinated after having been released. A number of suspects in the killing of Góngora were detained;

(e) Libardo Antonio Rengifo Vargas: The First Court of Public Order found that the killing of Rengifo Vargas was motivated by personal matters and was therefore not a political killing, and remitted the case on 19 June 1989 to the Sixth Court of Criminal Instruction in Chinchiná where the investigation continued.

124. On 11 January 1990, another reply was received from the Government of Colombia to the Special Rapporteur's letters dated 24 July 1989 and 6 October 1989 (see document E/CN.4/1990/22, para. 125 and para. 128, respectively) concerning the following cases:

(a) José Joaquín Vergara Bohorquez: The judge of the Fourteenth Court of Criminal Instruction of Barrancabermeja, Santander, closed the investigation following the indictment of one individual in the case;

(b) Esperanza Díaz: The investigation continued under the jurisdiction of the Fifteenth Court of Criminal Instruction of Barrancabermeja, Santander, with co-operation from the Technical Corps of the Judicial Police;

(c) Gilberto Santana: The case was in the preliminary investigation phase under the First Court of Public Order of Barrancabermeja, Santander;

(d) Iván Restrepo and Fidel Roa: The investigation was under way in the sixty-eighth Court of Criminal Instruction of Chigorodó, Antioquia. It was reported that the correct names of the victims were Ivan Muñoz Munera and Fidel Royas;

(e) Benjamín Sotel, José Santos Carepa and José Francisco Mantilla Ojeda: The case was remitted to the competence of the Second Court of Public Order of Ibagué and the investigation continued in the hands of the Technical Corps of Judicial Police of Chaparral, Tolima;

(f) Teodoro Quintero: The procedures for the investigation were ordered to be initiated by the First Court of Mobile Criminal Instruction of Bucaramanga, Santander;

(g) Ismael Montes Peña and Evert Manuel Cabrera: The investigation was under way in the forty-ninth Court of Mobile Criminal Instruction in Medellín. It was reported that three unidentified bodies were recovered by the Arboletes Inspection Police together with that of Mr. Peña;

(h) Orlando Roa Grimaldus: The investigation continued in the Ninth Court of Criminal Instruction of Bucaramanga, Santander.

125. On 13 February 1990, another reply was received from the Government of Colombia to the Special Rapporteur's letter dated 6 October 1989 (see document E/CN.4/1990/22, para. 128) concerning the case of María Helena Díaz Pérez, stating that the Government rejected any attempt to consider, and thus bring before the Special Rapporteur, the death of María Helena Díaz Pérez, Judge of the Republic, as a summary or arbitrary execution, given the nature of her position and for the reasons outlined below.

126. The Government noted that violence in Colombia had taken various forms in recent years and served numerous interests. It was perpetrated by different agents and occurred indiscriminately, claiming victims in all social strata and among persons engaged in the most diverse activities, including members of civilian organizations, civil servants or members of the armed forces and the National Police.

127. In the case in question, the victim was a civil servant in the judicial branch of public authority. The Government stated that it was completely improper to broaden the concept of human rights violations to include such cases. There was no purpose in making it look as if the Government was responsible for deaths which had caused it such distress and frustration, or for attacks against persons who, like Judge Díaz, were the bulwark of the institutional system that governs the country and who were committed to the Government's policy to the point of sacrifice.

128. In the Government's opinion, if cases such as the murder of Judge Díaz are characterized as a violation of human rights, then the criterion used is a subjective one and is mistaken. It therefore came as a surprise to the Government of Colombia that a death resulting from terrorist acts committed by drug dealers against the country's institutional stability could even be regarded as political homicide.

129. On 19 March 1990, another reply was received from the Government of Colombia to the Special Rapporteur's letters dated 24 July 1989, 6 October 1989 and 20 October 1989 (see document E/CN.4/1990/22, paras. 125, 128 and 129, respectively) concerning the following cases:

(a) Henry Taite and Iván Gómez Ariza: An investigation was carried out by the Magdalena section of the Intelligence Group of the Administrative Security Department (DAS). According to the investigation, the death threats were carried out on 4 April 1989 by way of a note left at CUT union headquarters by members of a paramilitary group known as "Los Chanizos" or "Amigos de Santa Marta". The investigation led to the capture of the head of the paramilitary group;

(b) Omar Niebles: Due to the death threats received by Mr. Niebles, a unit of the Government security services was offered for protection, but was withdrawn at the request of the union itself. Several units of the Magdalena section of the security forces were dispatched to provide protection for the various unions;

(c) Jorge Luis Garcés Castillo: On 27 May 1989 the case was remitted to the Unit of Preliminary Inquiry of Belén, Umbría where the investigation continued;

(d) Twenty-six street children killed in Bogotá: A preliminary investigation was undertaken by the Attorney Delegate for Human Rights;

(e) Miguel Cardona and Gonzalo Castaño: The Attorney Delegate for Human Rights solicited the required protection for the lives of Messrs. Cardona and Castaño from DAS;

(f) Omar Gómez Marín and Manuel José Zapata Carmona: The cases were before the ninety-eighth Court of Criminal Instruction of Bello, Antioquia, and subsequently were remitted to the Technical Corps of the Judicial Police for further investigation;

(g) Gustavo de Jesús Mira Ramírez: In accordance with the information provided by the Attorney Delegate for Human Rights, the Fourth Court of Public Order of Medellín was proceeding with the investigation;

(h) Juan Rivera: The Attorney General was informed that local authorities in Puerto Nare, Antioquia, had no knowledge of the death of Mr. Rivera and has thus directed inquiries to the authorities of Puerto Berrío and Cimitarra, where his death allegedly occurred;

(i) Manuel Libardo Díaz Navas, Wilson Mantilla and Arturo Salgado Garzón: The Attorney Delegate for Human Rights requested the National Directorate for Criminal Instruction for information regarding steps taken to ensure their safety;

(j) Massacres of Honduras, La Negra and Punta Coquitos: Criminal proceedings were before the First Court of Public Order of Bogotá and a special agent from the Office of the Attorney General was designated. Five individuals were in detention, and were charged as material authors of the crime. The substantial link between narcotics traffickers and crimes such as the present cases was established. Meanwhile, on 7 December 1989, an order was issued for the release from preventive detention of an army major and a lieutenant initially detained in connection with these cases.

130. On 27 March 1990, a communication was received from the Government of Colombia stating that on 22 March 1990, at 8.05 a.m., an attempt on the life of presidential candidate Bernardo Jaramillo Ossa took place as he was entering the domestic airline terminal at the El Dorado Airport of Bogotá to board a flight to Santa Marta; Mr. Jaramillio died two hours later at the police hospital where he had been taken.

131. It was also stated that the attempt on Mr. Jaramillo's life was perpetrated by an unknown number of hired assassins, one of whom used a mini-Ingram machine gun, and that Mr. Jaramillo's body guards reacted immediately and opened fire on the assailants, one of whom was wounded, arrested and taken to the Fontibón police station.

132. According to the communication, the arrested assailant from Medellín, Antioquia, had false identity papers and the State security agencies had preliminary information that would indicate that the Medellín drug cartel was responsible for the assassination. The Technical Intelligence Unit had some proof that would suggest that at least four persons took part in the shooting and that the plan had originated in Medellín. The hired assassins seemingly travelled from that city to carry out their plan against the leader of the Patriotic Union. It was stated that information gathered also suggested other planned attempts on the lives of certain public officials and well-known political figures, and that the use of hired assassins with a suicidal bent, the technique repeatedly used by drug-traffickers, would mean a greater risk to potential victims.

133. It was stated that the Government had ordered an immediate investigation of the circumstances surrounding this hideous crime, which caused great dismay, and was determined that those responsible would receive the maximum penalty.

134. On 10 July 1990 a reply was received from the Government of Colombia to the Special Rapporteur's cable of 1 March 1990 stating that, in the case of Jim Preston and Father Guillermo Correa, according to an investigation carried out by the Administrative Security Department (DAS), no facts existed indicating that death threats had been made. It further stated that Father Correa himself affirmed that while he had been verbally attacked by several people, no concrete death threats had been made. It stated that, nevertheless, the investigation would continue.

135. On 18 September 1990 another reply was received to the Special Rapporteur's letter dated 24 July 1989 (see E/CN.4/1990/22, para. 125) stating that the case of César Arcadio Cerón was under investigation by the judicial authorities.

136. The letter also replied to the Special Rapporteur's cable of 13 August 1990 stating that on 18 July 1990, Nelson Pinzón Guevara, alleged by the military to be a member of the opposition group called Fuerzas Revolucionarias de Colombia (FARC) (Revolutionary Forces of Colombia), took part in an ambush of a patrol of the Nueva Granada military battalion in Santander department and was wounded. According to the reply, he was taken to the battalion where he received medical care. It also stated that Mr. Pinzón voluntarily offered to lead the military troops to the hiding place of the guerrilla group which had ambushed them, and during a subsequent armed confrontation was again wounded when he tried to escape military vigilance. It was further stated that Mr. Pinzón was treated at the San Rafael hospital in Barrancabermeja under military guard, and that as of 30 July 1990, per order of a habeas corpus petition, he remains under the responsibility of judge Octavo Superior of Barrancabermeja.

137. With regard to Alonso Pinzón Guevara, it was stated that he was killed on 16 July 1990 in an armed confrontation between the military battalion Nueva Grande and the Twelfth Front of the FARC to which Mr. Pinzón belonged.

138. It was further stated that the Attorney Delegate for the Defence of Human Rights ordered a preliminary investigation into these cases, demonstrating the Colombian authorities' will to support human rights and fundamental freedoms.

El Salvador

139. On 30 July 1990, a letter was sent to the Government of El Salvador stating that in 1989 and the first months of 1990 a considerable number of cases of killings were reported within the context of the internal armed conflict. Allegations transmitted were as follows:

(a) Conejo Bártolo had been detained on 23 January 1989 by the Infantry Brigade of Marina and was found dead on 6 February 1989 with signs of torture;

(b) José Joaquín Vásquez González, a member of the Agricultural Co-operative of La Esperanza, had been detained on 5 June by soldiers of the Third Infantry Brigade in Canton Las Lomitas and died on 20 June 1989 while in the custody of the National Police of San Miguel. His body bore signs of torture. The National Commission for Human Rights informed his wife he had committed suicide by hanging;

(c) Lucio Cea Parada, had been detained between 1 and 2 July 1989 by a patrol of the Atlacatl battalion and soldiers from the Second Infantry Brigade in Siete Jovenes de Tres Ceibas and Camorepeque, Apopa, and was found dead after having secretly been buried by soldiers on 2 July;

(d) Héctor Marroquín Miranda had been detained between 1 and 2 July 1990 by a patrol of the Atlacatl battalion and soldiers from the Second Infantry Brigade in Siete Jovenes de Tres Ceibas and Camorepeque, Apopa, held incommunicado between 3 and 11 July at the Second Brigade barracks and died in a hospital on 13 July from internal injuries caused by the soldiers;

(e) Julio Bonito Escalante, a member of the El Tigre Co-operative affiliate of the Federation of Associations of Agricultural Production Co-operatives of El Salvador (FEDECOOPADES), was killed on 1 November 1989 by soldiers from the seventh military detachment (DM7) who opened fire on co-operative members;

(f) Cecilio Rodríguez Rivera and Apolinario Miranda, both members of the Popular Movement of Christian Socialism, had been detained on 6 November 1989 by soldiers from the sixth military detachment (DM6) based in Sonsonate and were found dead on 7 November in Colonia Buenos Aires, Sonsonate;

(g) Aparicio Campos Yuri Egson, a student at the University of El Salvador, had been detained on 8 November 1989 by the National Police and died in the Rosales hospital on 25 November 1989 as a result of beatings by members of the National Police;

(h) María Angel Flores and Julia del Carmen Ponce, both members of the FEDECOOPADES, had been detained on 31 December 1989 near Ahuachapán by four armed men dressed in civilian clothes, who abducted them in an unmarked car with shaded windows, and were found dead bearing signs of torture on 11 Janaury 1990, on the highway between Santa Ana and San Salvador;

(i) Julian Rosales López had been detained in February 1990 by soldiers from the Atlacatl battalion in Canton San José Costez, Delgado City, San Salvador, and died as a result of torture while in the custody of the National Police. On 8 February his family was informed that his body was at the Isidro Menéndez police headquarters in San Salvador;

(j) Armando Vladimir Sánchez, a four-month-old baby who had been detained with his parents by the National Police from 4 January 1990 until 12 February 1990, died on 18 February 1990 as a result of treatment received while in police custody;

(k) Efraín Cabrera Quintanilla and Cristina Alvarez de Cabrera, both members of the National Organization of Indigenous Salvadorians (ANIS), were killed on 10 March 1990 by soldiers of the DM7 in their residence in Canton La Hachadura, San Francisco Menéndez, Ahuachápan;

(l) Samuel Jérez Pérez, a member of ANIS, was killed on 10 March 1990 by an armed individual dressed in civilian clothing in El Rosario, Jujutla, Ahuachápan, after repeated death threats to members of ANIS;

(m) Roberto Vázquez, President of the El Carmen Co-operative, was killed on 20 April 1990 by soldiers of the detachment of military engineers in the canton Despoblado, Zacateluca, department of La Paz.

140. Cases of unarmed civilians killed as a result of indiscriminate air bombardments by the Salvadorian air force were reported as follows:

(a) Carmen Rivera, aged 3; Valeriana Brigida Rivera, aged 2; Lorenzo Rivera, aged 11; Baudillo Hernández, aged 51; on 8 March 1989, in Morazán province;

(b) Dolores María Miranda, aged 10; Isabel López, aged 10; Beatriz López, aged 2; Blanca Lidia López Guardado, aged 3; Aníbal Guardado, aged 28, on 11 February 1990, in the Corral de Piedra resettlement village in Lagunita, Chalatenango.

141. On 21 September 1990, a cable was sent to the Government of El Salvador stating that 75 political prisoners in Mariona prison allegedly feared for their lives and physical integrity because they had received a number of death threats since July 1990. These threats mentioned an alleged plan for the collective murder of political prisoners and for individual attacks. The death threats were reported to have been made by former soldiers who were serving sentences for ordinary offences, and by members of the security forces who came to the prison on visiting days.

142. In this connection, the Special Rapporteur appealed to the Government to protect the right to life, security and physical integrity of those who received death threats, and requested that the Government provide information on the measures taken in this regard.

143. On 9 November 1990 another letter was sent to the Government of El Salvador transmitting cases of killings during the first eight months of 1990. Information indicated an increase of incidents of killings compared to the number of killings during the previous year. The following are such cases reported to the Special Rapporteur:

(a) Oswaldo Antonio Alfaro Estevéz, found on Boulevard del Ejército in San Salvador after having been detained in November 1990 by the Policia de la Hacienda (civilian police);

(b) Carlos Lainez, aged 40, a union member, killed on 20 March 1990 by individuals identifying themselves as members of the air force as he carried out his construction work in Tonacatepeque, San Salvador;

(c) Francisco Sánchez, a day worker, killed on the night of 22 May 1990 by soldiers of the 4th military detachment (DM4). The following day, an officer of the DM4 was said to have gone to his house with a group of soldiers to express regrets for the killing. No investigation of the case is known to have been initiated;

(d) José Luis López López, aged 2 and Manuel Angel López López, aged 2, killed when indiscriminately launched military grenades hit their home in Los Pardos, Chalatenango, during a confrontation between the batallón Chayguanca of the 4th infantry brigade, based in El Paraiso, Chalatenango, and the FMLN.

144. The letter also stated, in regard to the 16 November 1989 killings of the six Jesuit priests, their cook and her daughter (E/CN.4/1990/2, para 156(c), that further information indicated a lack of co-operation on the part of the military in the investigation into the case by the 4th criminal court in San Salvador. It was further stated that the log-book registering all entries and exits from the military school in San Salvador, considered crucial evidence in the case, had been burned on the orders of the lieutenant colonel of the military school, and that after his arrest he was freed on bail. Some high-level officers summoned by the court reportedly refused to testify while

others allegedly falsified testimony. It was finally stated that a group known as the Alto Mando de los Escuadrones de Muerte (High Command of the Death Squads), allegedly threatened with death, in an April 1990 communiqué, all religious and civilian persons involved in the case if the members of the armed forces implicated were not immediately released.

145. On 10 April 1990, the Special Rapporteur received a communication from the armed forces of El Salvador concerning the killing of second lieutenant Salvador Enrique Salazar Hernández, on 6 April 1990, near the Coatepeque lake in Santa Ana province. It was stated that the assailants followed him, abducted him and killed him, and that he was completely disarmed when he was killed. It was further stated that the killers identified themselves as elements of the FMLN (Farabundo Martí National Liberation Front) after having riddled him with bullets.

146. On 11 April 1990, another communication was received from the armed forces of El Salvador describing the following further incidents of killings:

(a) The murder of two members of the National Police while on duty, at a gas station in the capital city;

(b) A car-bomb attack in Santa Tecla city on 2 April 1990 left six military and one civilian dead;

(c) Indiscriminate attacks on civilians left several dead and injured, including Otto Sorto Milla, son-in-law of the air force commander;

(d) The killing of Mrs. Máxima Adelaida Cotto, who was pregnant, during an FMLN attack on the Infantry First Brigade.

147. On 13 July 1990, a communication was received from the Government of El Salvador relating the killing of Major Carlos Figueroa Morales by the group "Modesto Ramírez" belonging to the FMLN.

148. On 9 November 1990, a letter was received from the Government of El Salvador transmitting a press release dated 27 October 1990 which denounced an explosives attack by the FMLN on the armed forces high command in which two minors, aged 8 and 17, were allegedly killed.

149. On 26 November 1990, a letter was received from the Government of El Salvador transmitting a bulletin of the Office for Human Rights of the Armed Forces dated 23 November 1990, stating that 13 civilians were killed between 19 and 20 November 1990 by the irregular forces of the FMLN during their offensive launched on 19 November.

Ethiopia

150. On 10 April 1990, the Special Rapporteur sent a cable to the Government of Ethiopia regarding the information received that six civilians had been killed in March 1990 in the village of Akhrur, Akeleguzai province, during an air raid by Ethiopian helicopter gunships which had sprayed cannon fire on the village, and that on 3 April 1990, in the town of Afabet and in the port city of Massawa, 16 and 30 civilians respectively had been killed in bombardments by Ethiopian fighter planes using cluster bombs and demolition bombs

destroying residential buildings. The names of 13 identified victims among the 16 killed in Afabet and of 28 identified victims among the 30 killed in Massawa were also transmitted.

151. In view of the continuing tense situation of armed conflict in Eritrea, the Special Rapporteur, seriously concerned for the lives of innocent civilians and in particular those of women and children, appealed to the Government to take all necessary measures to protect the lives of civilians who might be trapped in armed confrontations in the region, and requested information on the above-mentioned incidents and the measures taken by the Government to protect the lives of the civilian population.

152. On 26 July 1990, a letter was sent to the Government of Ethiopia transmitting allegations that during the past several months, in the Eritrea region, a considerable number of civilians were killed during air raids over towns and villages carried out by Ethiopian fighter planes and helicopter gunships, indiscriminately dropping cluster and demolition bombs over residential and commercial districts.

153. In addition to the allegations already communicated to the Government, the following alleged incidents were described:

(a) On 21 April 1990, in Afabet, six civilians were killed in an air raid by Ethiopian MIG fighter planes;

(b) On 22 April 1990, in Massawa, 55 civilians were killed in an air raid by Ethiopian MIG fighter planes;

(c) On 9 June 1990, in Asmara, a special army squad dispatched from the army base in Kagnew, Asmara, attacked a group of youths watching World Cup football matches on television in Kidane Mehret near the city centre, causing the death of 30 persons. The army reportedly stated that the youths had violated the curfew.

154. Furthermore, on 19 May 1990, 12 persons, former senior members of the armed forces who had been arrested following a coup attempt in May 1989, were reportedly executed after a trial by the military division of the Supreme Court. The names of the 12 were given. It was alleged that the accused were not given the right to appeal to a higher tribunal against their conviction and sentences nor the right to seek pardon.

155. On 4 December 1990, a reply was received from the Government of Ethiopia to the Special Rapporteur's letter of 26 July 1990, stating that the allegations transmitted of indiscriminate attacks on the civilian population by Government forces were totally groundless and fabricated. According to the reply, with regard to the trial of the 12 senior officers, the proceedings were conducted fairly and in accordance with due process of law. It was stated that these officers, charged with the most serious crimes under the country's special penal code, were provided with all legal protections essential for their defense.

156. It was also stated that apart from ensuring the legal rights of those officers who chose to engage defence counsels of their own, the Government, upon request from the others who were unable to do so, had also provided competent lawyers to present their cases and defend them in Court.

157. It was stated that during the trial, which took over a year, the Court in the 26 sessions it held made painstaking investigations into the charges, and that its decision was based on 92 witnesses and 65 documents for the prosecution and 130 witnesses and 12 documents for the accused; furthermore, the trial was conducted in public. The execution was carried our pursuant to a final judgement rendered by the First Military Bench of the Supreme Court and, as there was no higher tribunal than the Supreme Court, the accusation of denial of the right to appeal was incorrect.

Ghana

158. On 26 July 1990, a letter was sent to the Government of Ghana transmitting allegations that during the past year a number of persons were sentenced to death by the public tribunals for convictions of murder, of conspiracy to murder or of armed robbery. The public tribunals, special courts, established in 1982 under the public tribunals law reportedly may impose the death penalty for offences specified by the Provisional National Defence Council (PNDC) and in cases where the tribunal is satisfied that very grave circumstances meriting such a penalty have been revealed. Under the public tribunal law as amended in 1984, the national public tribunal tries cases itself and also can hear appeals against its own decisions sitting as a national appeals tribunal, thus violating the requirement of an independent appeal procedure. Among those sentenced to death, nine persons were reportedly executed on 3 February 1990. The nine, whose names were not made public, had been sentenced to death in 1989 for their involvement in armed robberies and murders around Accra.

159. In addition, between January and March 1990, eight persons were reportedly sentenced to death by regional public tribunals. The eight allegedly included:

(a) David Agudu, aged 26, sentenced to death by the Greater Accra regional public tribunal;

(b) Azutey Tetegah, Ramani Abubakari and Ahmed Dramani sentenced to death by the national public tribunal in Accra;

(c) Adriano Beu, a police corporal, sentenced to death by the regional public tribunal in the Brong;

(d) Two persons whose names were not made known, sentenced to death in absentia by the regional public tribunal in March 1990.

160. At the time of preparation of the present report, no reply had been received from the Government of Ghana.

Guatemala

161. On 30 January 1990, the Special Rapporteur sent a cable to the Government of Guatemala concerning Mgr. José Mercedes Carrera, vicar-general of the San Marcos department diocese, who was reportedly threatened with death on 31 December 1989 by several armed men who burst into the presbytery, making a show of their weapons, while Mgr. Carrera was distributing food to needy children.

162. The Special Rapporteur appealed to the Government to take the necessary measures to protect the life of Mgr. Carrera and requested information on the case.

163. On 7 February 1990, another cable was sent to the Government of Guatemala concerning Juan Luis Coy Monzón, organization and media secretary of the Electrical Worker's Union (STINDE), and his family. According to the information, on 22 January 1990, several men in civilian clothing visited Juan Luis Coy's home and, not finding him there, warned his wife "either he leaves the country or he will have to face the consequences". Earlier, on 7 April 1989, the same persons had tried to kidnap his 12-year-old daughter who, thanks to her mother's help, managed to escape.

164. The Special Rapporteur appealed to the Government to take the necessary measures to protect the life of Juan Luis Coy Monzón and his family and requested information on the case.

165. On 9 February 1990, another cable was sent to the Government of Guatemala concerning the deputy Mr. Héctor Luna Troccoli who, in the week from 29 January to 4 February, had been threatened over the telephone. He had allegedly been told "if you continue to talk about the debt and its repercussions in ... the country, you'll have to be careful because in Guatemala it is very easy to kill a deputy".

166. The Special Rapporteur appealed to the Government to take the necessary measures to protect the life of Mr. Héctor Luna Troccoli and requested information on the case.

167. On 28 February 1990, another cable was sent to the Government of Guatemala concerning the persecution, often in the form of death threats and extrajudicial killings, suffered by persons who had refused to join, or who had left, the civil self-defence patrols. According to the information received, these persons were described as "subversives". This was reportedly the case of the residents of Sacpulup canton who, in the course of the month, had been seriously harassed by the army, and of Domingo Ventura, an indigenous farmer, member of the "Runujel Junam" Council of Ethnic Communities (CERJ) and a resident of the village of Pachalam in the municipality of San Andres Sajcabaja, El Quiché department.

168. The Special Rapporteur also referred to the case of Factor Méndez Doninelli, director of the Centre for Human Rights Research, Studies and Promotion (CIEPRODEH), and several members of his family who had reportedly been threatened with death. It was alleged that, in June 1989, a number of armed men in civilian clothing had threatened to kill the son of his brother Antonio and of Ana Graciela del Valle, and that, on 5 February 1990, a number of men who identified themselves as members of the National Police had searched the home of his brother Antonio in Guatemala City. On the same day various individuals had reportedly followed his wife in the street in a red vehicle with registration plate P-156907, and on 19 February 1990, a number of persons had stolen the vehicle owned by Factor Méndez and regularly used by CIEPRODEH.

169. The Special Rapporteur appealed to the Government to take the necessary measures to protect the lives of the above-mentioned persons and requested information on the cases.

170. On 6 April 1990, another cable was sent to the Government of Guatemala concerning Pedro Castro Tojín, a resident of Centro Segundo Parraxtut canton, Sacapulas, El Quiché, whose life might be in danger.

171. According to the information received, on 17 March 1990, a group of men in civilian clothing had attacked the dwelling of Mr. Castro, a member of CERJ, killing his wife and injuring him. The attackers included two military officers who had previously threatened the family. The officers had also made death threats against other residents of the town, causing 19 of them to flee. Complaints concerning these incidents were submitted to the justice of the peace of the town and the office of the attorney for human rights. Subsequently, these persons, accompanied by Mr. Amilcar Méndez Urizar, president of CERJ, and the deputy attorney for human rights of the region, tried to return to the community; they were unsuccessful as a group of about 25 armed men (apparently civilian patrol members led by military officers) fired shots at and threatened them.

172. The Special Rapporteur appealed to the Government to take the necessary measures to protect the life of the above-mentioned persons and requested information in this regard.

173. On 5 June 1990, another cable was sent to the Government of Guatemala concerning death threats against Edgar René de León Vega, a merchant, and José Eduardo Davila Rivera, a secondary-school student. According to the information, at 11.30 p.m. on 14 May 1990, men armed with machine-guns and suspected of belonging to the military command of the eastern zone were reported to have threatened these two individuals with death, giving them 72 hours to leave the country. The incident took place in the presence of witnesses, as the two left a cafeteria in calle 12, zone 1 of Guatemala City. It was also reported that, as soon as the men had left, Mr. de León Vega and Mr. Dávila Rivera asked national police patrol No. 144 for assistance, but their request was rejected. On the following day, they reportedly took refuge in the headquarters of the Guatemalan Red Cross and asked for asylum in the Canadian Embassy.

174. The Special Rapporteur appealed to the Government to take the necessary measures to protect the lives of Edgar René de León Vega and José Eduardo Dávila Rivera and requested information on these cases.

175. On 11 July 1990, another cable was sent to the Government of Guatemala concerning a number of persons, most of them members of the National Association of Widows of Guatemala (CONAVIGUA) in the locality of Pacoc, municipality of Zacualpa, El Quiché, who had reportedly received death threats on 14 June 1990 from a group of armed men believed to be members of the armed forces. According to the information, these men had been in possession of what appeared to be a list of names that had been handed over earlier to the armed forces by the commander of the Pacoc civilian self-defence patrols. The cable transmitted the names of 16 persons allegedly threatened among whom one, Juana Calachij Méndez, was reported to have been threatened earlier and to have been the victim of kidnapping attempts.

176. The Special Rapporteur appealed to the Government to take the necessary measures to protect the life of the above-mentioned persons and requested information in this regard.

177. On 17 July 1990, a letter was sent to the Government of Guatemala transmitting allegations that during the first six months of the year a large number of trade unionists, human rights defenders, peasant and student leaders received death threats or were killed. Reports attributed these actions to the security forces, paramilitary groups linked to security forces or to the civil self-defence patrols. Many of the killings resulted from the refusal of peasants and members of the indigenous communities to be inducted into the civil patrols, despite article 34 of the Constitution which guarantees the voluntary nature of such recruitment.

178. Allegations of death threats were described as follows:

(a) Juan Sales received death threats from a member of the civil patrol reportedly for denouncing the destruction of several homes by the civil patrol in Cerro Phisphis, La Cumbre, San Ildefonso Ixtahuacán, Huehuetenango;

(b) Juan Tun Mejiá, aged 22, member of CERJ; Domingo Tun Mejiá, aged 17 and Diego Yat Us, aged 15 were threatened with death by the military for allegedly refusing induction into the civil patrol;

(c) Victoria Tojin Chu was threatened by a member of the Sacapulas, El Quiché military detachment, reportedly for denouncing attacks on civilians by the local civil patrol;

(d) Gaspard Lux Tiu, aged 7; Giberto Lux Tiu, aged 10; Basilio Lux Tiu, aged 12; Margarita Lux, aged 15; Maria Pu, aged 52; and Josefa Tojin Imul, aged 55, all residents of Parraxtut, Sacapulas, El Quiché, were threatened with death by soldiers for reportedly denouncing the death of a relative by the military;

(e) Ana Graciela Del Valle, a relative of Factor Méndez Doninelli, president of the Centre of Investigation, Study and Promotion of Human Rights in Guatemala (CIEPRODH), who has reportedly received numerous death threats, was also threatened with death by members of the National Police;

(f) Domingo Ventura, aged 35, member of CERJ, was threatened with death on 24 January 1990 when the commander of the San Andrés de Sajcabajá, El Quiché military detachment and 30 soldiers entered his home by force and detained him for several hours for reportedly refusing to co-operate with the military;

(g) Milhen Chávez, district director of CIEPRODH, went into exile due to death threats reportedly received for providing the press with information regarding involvement of the G-2 military intelligence service in a human rights case;

(h) Juan Luis Coy Monzón, member of the Union of Workers of the National Institute of Electricity Workers (STINDE), was threatened with death and was told to stop union activities and leave the country. Prior to this incident, there was an attempted kidnapping of his daughter and in January and February 1990, his wife was abducted and questioned regarding his union activities;

(i) Luis Fernando Hernández, José López Pérez, Abraham Santizo, César Augusto Franco de León, Roberto Mairén Jacobo Abrego, Luis López Cifuentes, Osberto Hugo Rodas, Alfonso Colop y Colop, Benaro Soberanis, and Héctor Alvarado Cho, members of the executive committee of the union of CAUISA (Central American Glass Company) workers, were threatened with death by the anti-riot squad of the National Police when they were forcefully removed from the factory site on 3 June 1990;

(j) Ramón Jácome Pinto, leader of the Union of Workers of the Guatemalan Social Security Institute (STIGSS), and his family were threatened with death on 8 May 1990 and were told to give up their union activities.

179. Deaths were described as follows:

(a) Miguel Pu Lopez, aged 25 and Francisco Pucmach, aged 30 were killed by 20 members of the self-defence civil patrol on 16 May 1990 in San Sebastián, Sacapulas, department of El Quiché. According to the police they died in an attack on the patrol. Eye-witness accounts contradict this explanation;

(b) Pedro Pérez, aged 10 and Gaspar Gallego, aged 15 were reportedly tortured and then killed on 28 April 1990 by soldiers from the military base in San Gaspar, Chajul, department of El Quiché;

(c) José Cuyuch Raymundo, aged 25, was killed in May 1990 in Cabá, Chajul, department of El Quiché, when army members searched and then destroyed homes as well as cultivated fields;

(d) Fidelino Raul Tobias Aparicio, aged 41; Miguel Angel Rianca Sicay, aged 44; Gregorio Ramírez y Ramírez, aged 42; Juan Pablo Quietuy, aged 48 were detained on 22 May 1990 by the military in Xexhiboy, Pamajoj Achichoy and Cheritay in Santiago Atitlán in Sololá department. Their bodies were found on 24 May 1990 in Cerro Oro, Santiago Atitlán;

(e) José María Ixcayat, a leader of CERJ, was killed on 1 May 1990 by three masked and armed men dressed in civilian clothes in Caserío de la Fe. Reports attributed his death to the security forces or civilians who acted with their acquiescence or connivance, noting that he had previously received numerous death threats from the military and the civil patrols for his role in opposing forced conscription in the civil patrols;

(f) José Vicente García, a leader of CERJ, was killed on 10 April 1990 in La Montaña, El Quiché, by armed men dressed in civilian clothes. He had on previous occasions been threatened with death and detained by members of the self-defence civil patrol;

(g) Pedro Gallego de León was killed after being tortured on 10 March 1990 in El Quiché by members of the army who attacked several towns in this department;

(h) The bodies of Juan Gustavo Herrera González, aged 23; Fernando Rivera Ortiz, aged 23; and Oscar Emilio Echeverriá, aged 24 were found on 31 March 1990 in Escuintla department after having been detained days before in zone 1 in Guatemala City by members of the security forces and taken away in a blue jeep with polarized windows;

(i) Nestor René Osorio Sandoval, aged 41, member of the Union of Workers of the National Institute of Electricity (STINDE) in Chiquimula department, was killed on 2 March 1990 by three members of the security forces in the company plant;

(j) Gáspar Lainez, aged 38 and Pablo Escobar, aged 32 were killed by members of the Second Infantry Battalion of the Mariscal Zavala brigade after having been detained on 13 February 1990;

(k) Manuel Luis y Luis, a member of CERJ, was killed on 15 January 1990 in Portrero Viejo, Zamalpa, El Guiché. His body showed signs of beatings. Authorities refused to investigate his death or to hold an autopsy.

180. On 24 August 1990, the Special Rapporteur sent a cable to the Government of Guatemala concerning José García Bauer, Deputy for the Central District of Guatemala, who reportedly received death threats on 31 July 1990 when his family had received a telephone call giving Mr. García Bauer 48 hours to leave the country. Eight other members of Congress had apparently also received death threats recently.

181. The Special Rapporteur appealed to the Government to take the necessary measures to protect the life of José García Bauer and requested information on the case.

182. On 23 October 1990, another cable was sent to the Government of Guatemala concerning José Vicente Soto, Education Secretary of the Training Institute (INTECAP) Union, and Carmen Rubenia Zepeda, aged 33, his fiancée, who were being watched and had received death threats. On 13 October 1990, Carmen Zepeda was said to have been kidnapped in zone 7 of Guatemala City by armed men wearing civilian clothes and travelling in a cream-coloured jeep with one-way windows. The kidnappers were said to have beaten her, questioned her about Mr. Soto's trade union activities and threatened him if he did not immediatedly leave the country. Miss Zepeda was said to have been released next day. Since then, both persons concerned had reportedly continued to receive anonymous telephone calls.

183. The Special Rapporteur appealed to the Government to take the necessary measures to protect the right to life of the above-mentioned persons threatened with death and requested information on the case.

184. On 9 November 1990 another letter was sent to the Government of Guatemala transmitting allegations of a marked increase in killings in Guatemala particularly in the months preceding the November presidential elections. Of the 500 killings reported through September, approximately 55 per cent were said to have occurred between July and September. The victims were said to be members of unions, human rights organizations, opposition political groups and indigenous communities.

185. According to information received, many of the killings had been preceded by death threats and many occurred when peasant and indigenous men refused to serve in the self-defence patrols. These deaths were said to be attributable to the security forces, to paramilitary groups linked to these and to the self-defence patrols which function with the connivance of the authorities.

186. The following cases were described:

(a) Killings

(i) Héctor Aníbal Zuñiga, aged 45, peasant, who was abducted by men driving a pickup truck with polarized windows, was found dead on 5 March 1990 in Villa Nueva, Ruta San Miguel Petapa, Aldea el Frutal;

(ii) Jorge Ariel Castro Carrillo, aged 24, a student of the national university (USAC) law school, was abducted by four unidentified individuals on 1 October 1990 and his body dumped in front of the law school. The Minister of the Interior reportedly qualified his death as a common crime;

(iii) David Gutiérrez Morales, Everardo Boteo Morales, Juan José Orellana Chacón and Israel Chacón Aquino, peasant labourers in the Flor de la Esperanza co-operative who had disappeared in May 1990 from the co-operative in the municipality of La Libertad, department of El Petén, were found dead on 27 September 1990 floating in the Usumacinta River in El Petén. Their deaths were reported to the El Petén court and to the prosecutor for human rights on 26 September 1990;

(iv) Refugio Aracely Villanueva was shot dead on 26 October 1990 in Calzada Aguilar Batres, Guatemala City, by two men riding a motocycle as she was driving with her husband, Byron Barrera, Vice-President of the Association of Journalists of Guatemala (APG) who had continued receiving death threats after having returned to Guatemala in 1986 following several years of exile. Her husband was seriously wounded in the same attack;

(v) Ana Guadalupe Hernández Leonardo, aged 17, taken from her home by heavily armed men in civilian clothes in zone 3 in Guatemala City on 7 September 1990, was found dead on 12 September 1990 under the El Incienso Bridge in Guatemala City. Her abduction had been reported to the National Police but an investigation was never initiated;

(vi) Humberto González Gamarra, Secretary-General of the Revolutionary Democratic Union (URD), was killed on 15 October 1990 at 4.10 p.m. in zone 11 in Guatemala City by heavily armed men in civilian clothes;

(vii) Petronilo Hernández Basilio, Secretary of the Independent Agricultural Syndicate of Barrio La Reformita, an affiliate of the Trade Union Confederation of Guatemala (CUSG), was killed on 1 July 1990 in his home in the municipality of Moyuta, department of Jutiapa, by a group of men;

(viii) Orlando Estuardo Alvarado Morales, a teacher, who had been kidnapped on 20 October 1990 in Guatemala City, was found dead on 1 November 1990;

(b) Attempted killings

(i) Juan José Rodil Peralta, a congressional candidate for the National Centre Union Party (UCN), was ambushed on 5 October 1990 by a group of men in three cars as he returned from a political campaign trip;

(c) Killings of human rights workers

(i) Myrna Mackchang, aged 40, director of the Institute for the Advancement of Social Sciences (AVANSCO), was stabbed to death on 11 September 1990 by unidentified men as she left her office at 7.00 p.m on 12th Street, zone 1 in Guatemala City;

(ii) María Mejía, aged 47, member of CERJ, was killed on 19 March 1990 in her home when two military persons broke in searching for her son. Her husband, Pedro Lastro Tojin, was seriously wounded. The family had reportedly denounced continuing death threats from the military to the prosecutor for human rights;

(iii) Pedro Tiu Cac, member of CERJ, after having been kidnapped on 2 July 1990 from his residence in Chajob by individuals identifying themselves as police, was found dead on 4 July 1990 in a neighbouring town;

(iv) José Pedro Tiu Chivalán, aged 35, son of Pedro Tiu Cac, who had been kidnapped from his home on 2 October 1990, was found dead on 5 October 1990 in the department of Totonicapán;

(d) Death threats

(i) Manuel Tumax Aguilar, a journalist, has been receiving death threats since 10 August 1990 and was being watched by unidentified individuals;

(ii) Amilcar Méndez Urizar, president of CERJ, received a death threat on 30 July 1990 and was given 72 hours to leave the country;

(iii) Mario Polanco, aged 17, a member of the Grupo de Apoyo Mutuo (GAM) (Mutual Aid Group), was followed on 5 September 1990 by soldiers in a military jeep who then chased him on foot;

(e) Deaths in the course of military operations

(i) Magdalena Efranín Fray Santos, aged 12, was killed between 22 and 30 August 1990 when army troops based in Amacchel, Axcán, department of El Quiché, fired on inhabitants of that municipality wounding two other youths and capturing 37 civilians;

(ii) Gregorio Chevaj, an indigenous peasant, who had been detained in Cerro de Ojo, Santiago Atitlán, department of Sacatepéquez, was found dead on a public road after army soldiers marched into the indigenous community forcing out the inhabitants;

(iii) José Cuyuch Raiymundo was killed between 9 and 15 May 1990 when soldiers from Txiajá, El Quiché, carried out military operations in Cabá, municipality of Chacul, El Quiché. Mr. Cuyuch was ill in his home when the military broke in and searched the residence. His body was later found in the Caba river with signs of torture;

(iv) Pedro Villa, a peasant, had been detained on 22 June 1990 by members of the army based in Sulín, municipality of La Libertad, department of El Petén, while he was working in the field and was subsequently found dead.

187. The letter of 9 November 1990 further transmitted allegations of death threats and killings of street children involved in petty crime or glue-sniffing by agents of the police in Guatemala City:

(a) Deaths of minors

(i) Nahamán Carmona López, aged 13, died on 14 March 1990 as a result of serious injuries after reportedly being attacked on 4 March 1990 by members of the National Police on 12th Street and 6th Avenue, zone 1 of Guatemala City, while he and other minors were sniffing glue. The other minors, who served as eye-witnesses, were said to continue to receive death threats. Four police agents had been charged with his death and held while the case was being considered in the lower court of the 1st criminal court;

(ii) Marín Oswaldo de la Cruz Almengor, aged 12, was shot dead on 18 May 1990 at 1.15 p.m. by a police agent while robbing a motorist of sunglasses. An eye-witness was said to have been detained and threatened at the scene;

(iii) Walter Villatoro, aged 17; Salvador Sandoval, aged 16; and Jonito José Castellanos, who had been abducted on 25 June 1990 by heavily armed men driving a Blazer Jeep with polarized windows on 20th Street, zone 1 in Guatemala City, were found dead with bullet wounds and signs of torture.

188. On 5 December 1990 a cable was sent to the Government of Guatemala transmitting allegations that the following individuals were killed in a summary manner by army soldiers attached to the military base in Santiago Atitlán, Sololá department of Suchetepequez: Juan Carlos Pablo Sosod, aged 20; Pedro Mendoza Cotu, aged 18; Francisco Girón Chicojau, aged 10; Juan Ajuchán Mesiás, aged 15; Salvador Damion Yaqui, aged 50; Felipe Quieju Culán, aged 53; Nicolas Ajtujal Sosof, aged 17; Pedro Crista Mendoza, aged 14; Gaspar Coo Sicay, aged 18; Pedro Mendoza Pablo, aged 29; Pedro Daman Vásquez, aged 45.

189. On 2 December 1990, a lieutenant from the Santiago detachment attempted to detain a member of the indigenous community and in the process, wounded a child with a bullet. The members of the community, as well as the incoming and outgoing mayors, went peacefully to the military base to protest the action and to speak to the commander. Soldiers then opened fire with machine-guns on the group, killing the above-mentioned persons.

190. The Special Rapporteur expressed concern for the physical safety of this community in the light of the death threats and killings reported throughout the year in this community by the army which caused a perpetual state of fear among the people.

191. The Special Rapporteur requested information on this case and on any investigation made and particularly on the measures taken by the authorities to protect the lives and physical integrity of this community and to bring those responsible for the above-cited killings to justice.

192. On 12 December 1990, a reply was received from the Government of Guatemala to the Special Rapporteur's cable of 5 December 1990 with regard to the alleged massacre in Santiago Atitlán on 2 December 1990, transmitting a press communiqué from the President which stated that details of the incident indicated a possibility of errors in controlling the situation at the moment when the incidents were triggered.

193. It was also stated that the Government expressed its full intention to carry out an exhaustive investigation to determine the motives and development of the incidents as well as those responsible, and that the law would be strictly applied. In this regard, it was further stated that the Government would collaborate fully with the prosecutor for human rights and other competent authorities.

Haiti

194. On 5 November 1990, the Special Rapporteur sent a letter to the Government of Haiti mentioning that allegations to the effect that during the year 1989 civilians had been shot down by unidentified armed men, some of whom were in military uniform, continued to be brought to his attention. It is alleged that the competent authorities have not conducted investigations into these murders which would have led to the arrest of the persons responsible.

195. The Special Rapporteur was informed in particular of the following cases:

(a) A group of armed men, including persons in military uniform, is alleged to have opened fire on members of the Council of State on 21 June 1990, during a meeting with a group of private individuals. According to the source, Jean-Marie Montes, one of the persons attending the meeting was killed. Serve Villard, the representative of the private sector in the Council of State is said to have been seriously wounded and to have died on 24 June 1990. A third person is reported to have been injured during the same incident;

(b) During the night of 1-2 July 1990, in the St. Martin district of Port-au-Prince, Mariano Delaunay, a teacher and founder of evening classes for needy residents of the town is said to have been shot down by an armed man at the wheel of a lorry. Witnesses are reported to have identified the killer as an army sergeant;

(c) On 3 August 1990, Merus Laroche is said to have died while in detention in Cap-Haitien prison. It is alleged that Laroche was arrested and detained in the army local headquarters where he was tortured before being transferred to the prison. It is said that there was no medical supervision of Laroche.

196. At the time of preparation of the present report no reply had been received from the Government of Haiti.

Honduras

197. On 13 February 1990, the Special Rapporteur sent a cable to the Government of Honduras concerning death threats reportedly made against Mr. Oscar Anibal Puerto and Mr. Roberto Zelaya. According to this information, Mr. Puerto, a lawyer and vice-president of the Committee for the Defence of Human Rights in Honduras (CODEH), who received death threats over the telephone on 2 February 1990 at the CODEH headquarters in Tegucigalpa, had already received threats of that kind in January and April 1989. In the case of Mr. Zelaya, who worked in the department of social sciences at the Teachers Training University, studied law at the Autonomous National University of Honduras, and was a member of the University Reform Front, three G-2 agents had reportedly searched his home on the morning of 31 January 1990 and taken away books, and in the afternoon three armed men, members of the 3-16 battalion, were reported to have come to his home again, warning him not to lodge a complaint about the incident and to leave the country.

198. The Special Rapporteur, having received expressions of concern for the safety of the two above-mentioned persons, appealed to the Government to take the necessary measures to protect their lives and requested information on these cases.

199. On 4 April 1990, another cable was sent to the Government of Honduras concerning an attack on Roberto Zelaya, teacher in the social sciences department of the Teachers Training College and student of law at the Autonomous National University of Honduras. According to the information received, Mr. Zelaya had been seriously wounded in the course of an attack that had been taking place at 6.30 p.m. on 19 March 1990, while he had been walking near his home in Colonia Villanueva, Tegucigalpa. Those responsible for the attack were allegedly three armed men, supposedly connected with the armed forces, who had been driving a blue car with tinted windows and without number plates. They had left Roberto Zelaya before neighbours arrived and took him to hospital, where he was apparently in a very serious condition.

200. Furthermore, the attackers were said to have threatened the victim and other people: Dr. Ramón Custodio, Oscar Anibal Puerto, Juan Almendares Bonilla and Hector Hernández. These individuals had also received threats on various occasions during the previous year.

201. According to the information received, the threats and intimidation directed during the last few years against trade union members and people active in the field of human rights suggested that they were the work of clandestine groups operating in collusion with the armed forces and in particular with Battalion 3-16.

202. The Special Rapporteur had also noted with concern that in some recent cases the death threats had been carried out. On 4 July 1989, Edgardo Herrera, member of the Frente de Reforma Universitaria (FRU), had been shot dead by two civilians. The most recent case was that of human rights activist Reynaldo Zuñiga who had been shot dead in San Pedro Sula in January 1990.

203. In this connection, the Special Rapporteur appealed to the Government to take all necessary measures to protect the lives of the above-mentioned persons and requested any information in this regard.

204. On 17 July 1990, a letter was sent to the Government of Honduras transmitting allegations that during the first half of 1990, a large number of death threats were reported particularly against members of the Committee for the Defence of Human Rights in Honduras (CODEH), university organizations and peasant unions. Many of these threats were followed by extra-judicial killings by unidentified individuals alleged to be linked to the armed forces 3-16 and G-2 (military security) battalions. In a number of cases, the victims were first illegally detained and tortured, their homes often ransacked. The following cases in particular were reported:

(a) Roberto Zelaya, the attack on whom was referred to above. The individuals who threatened Roberto Zelaya with death told him to transmit the same threat to the following human rights and trade union activists:

(i) Ramón Custodio, president of the Committee for the Defence of Human Rights in Honduras;

(ii) Juan Almendares Bonilla, head of the Co-ordinating Committee of Popular Organizations (CCOP);

(iii) Hector Hernández Fuente, president of the United Federation of Honduran Workers;

(iv) Oscar Anibal Puerto, vice-president of the Committee for the Defence of Human Rights in Honduras;

(b) Reynaldo Zuñiga Cruz, regional president of the Committee for the Defence of Human Rights in Honduras (CODEH) and leader of the National Committee of Farmworkers (CNTC), was shot in the back and killed by an individual dressed in civilian clothing in San Pedro Sula, department of Cortez, reportedly for his activities in favour of peasant land rights;

(c) Denis Hernán Rodríguez García, member of the Farmworker Organization of Honduras, was detained on 20 March 1990 by members of the National Direction of Investigation (DNI) of La Hermita, Talaga, department of Morazán. He was then reportedly taken in an unmarked vehicle to the base of the First Special Forces Battalion. His body was found bearing gunshot wounds the following day near the Dulce river in Talaga.

205. On 7 December 1990, a letter was sent to the Government of Honduras transmitting allegations that in 1990 politically motivated death threats and killings had continued to occur affecting primarily individuals connected to the Commission for the Defence of Human Rights in Honduras (CODEH).

According to reports, acts were attributed to the armed forces or civilian groups, made up in part of retired military personnel who operate with the acquiescence of the authorities. The Special Rapporteur described the following cases:

(a) Cases of death threats

(i) Antoniá Ortega; Hilario Aguilera: Since 19 May 1990, Antoniá Ortega, wife of Hilario Aguilera, Secretary for International Matters in the worker's union of the National Electric Energy Company (STENEE) had been continually harassed. On 19 May 1990 a group of heavily armed men broke into their home, interrogated her about her husband's activities and threatened her with death. Again on 29 May 1990, at about 12.30 p.m., she was accosted and threatened with death by individuals travelling in unmarked vehicles and, according to reports, using the tactics of the counter-intelligence military units;

(ii) Candelario Reyes Garciá: On 26 June 1990, Mr. Reyes, director of the Peasant Theatre Group Central Hibueras, received death threats from the high command of the Military Intelligence Unit (PROMITEC) based in Santa Barbara, department of Yoro. In addition, individuals reported to be members of the same military unit fired shots around his home;

(b) Cases of killings

(i) Francisco Jávier Bonilla Medina: On 31 May 1990, Mr. Bonilla, a worker at the Honduran Institute of Social Security (IHSS) and ex-president of the worker's union of the IHSS (SITRAIHSS), was killed in the Puente El Chile section of Tegucigalpa by an unknown individual following tensions between union members and management of the State-run institution, and after having been pursued by unknown individuals on a previous occasion and having escaped twice from a paramilitary group;

(ii) Ramón Antonio Briceño: On 3 June 1990, Mr. Briceño, a member of the University Reform Front (Frente de Reforma Universitaria (FRU)), was found dead in the Kennedy-Llanos Section of Tegucigalpa after having been threatened on prior occasions by the Triple A of the United Democratic University Front (Frente Unido Universitario Democrático (FUUD)), a group alleged to be linked to State security forces;

(iii) Ramón de Jesús Ruiz Maradiaga: On 19 July 1990, Mr. Ruiz, legal adviser for the Commission for the Defence of Human Rights in Honduras (CODEH) and member of the Unity and Innovation Party (PINU), was killed in unclear circumstances at his home in La Ceiba, Atlantida by a weapon of 3.57 calibre reserved exclusively for official use, after having been threatened by the outgoing Commander of the 10th Infantry Batallion of La Ceiba for his activities with CODEH. His body was found with bullet wounds and signs of torture. Authorities concluded that he had committed suicide and no investigation was carried out into his death.

206. On 2 October 1990 a reply was received from the Government of Honduras to the Special Rapporteur's letter of 17 July 1990 transmitting information into these cases communicated to the Government as follows:

(a) Robert Zelaya; Ramón Custodio; Juan Almendares Bonilla; Hector Hernández Fuentes; Oscar Aníbal Puerto: The courts conducted investigations but could not find any formal complaints filed by the aforementioned who claimed to have received death threats;

(b) Reynaldo Zuñiga Cruz: An investigation was stated to be in progress at the Third Criminal Court in San Pedro Sula. It also stated that no formal complaint had been lodged;

(c) Denis Hernán Rodríguez García (Nuñez): On 15 August 1990 the Criminal Court of the department of Morazán decided to undertake a new investigation to correct procedural errors in the investigation by the magistrate of Talanga, Morazán.

India

207. On 30 March 1990, the Special Rapporteur sent a cable to the Government of India regarding the information received that in the State of Jammu and Kashmir more than 50 persons had been killed by security forces during demonstrations in various towns between 21 and 30 January 1990, and on 1 March 1990 at least 29 persons had been killed during demonstrations in Tenjura and Zakura in and near Srinagar. It was alleged that security forces had opened fire indiscriminately and without warning at the demonstrators including women and children.

208. In view of the continuing tense situation in Jammu and Kashmir, fears were expressed that further incidents of deaths might take place. In this connection, the Special Rapporteur, referring to article 3 of the Code of Conduct for Law Enforcement Officials, adopted by General Assembly resolution 34/169 of 17 December 1979 and its commentary stating that: "Law enforcement officials may use force only when strictly necessary and to the extent required for the performance of their duty", appealed to the Government to take all necessary measures in order to ensure that the right to life be protected in every possible manner, and requested information on the above-mentioned alleged incidents of deaths and also on the measures taken by the Government to prevent further deaths.

209. On 6 July 1990, a letter was sent to the Government of India transmitting allegations that over the past year many incidents of arbitrary and indiscriminate shooting by the Central Reserve Police Force (CRPF) or the army during demonstrations in Jammu and Kashmir State resulted in the death of a large number of unarmed civilians. The Special Rapporteur received a list of 48 persons allegedly killed in Srinagar and other towns by security forces up to 1 January 1990. According to some sources, the number of victims had reached several hundred by May 1990. These incidents allegedly occurred in the context of a political campaign by a number of local groups for independence or separation from India. Since January 1990, increasingly violent activities by several militant groups reportedly also resulted in killings of civilians, particularly persons considered by the militants to be "traitors".

210. The following were described as examples of incidents of killings by the security forces as reported to the Special Rapporteur:

(a) On 8 January 1990, in Srinagar, security forces opened fire and shot at unarmed demonstrators of whom 16 were killed;

(b) On 20 January 1990, 20 persons were killed during raids of security forces in the localities of Tankipona, Gurubazan, Habbakadal, Fatehkadal, Zaiden Mohalla, Chotabazar, Kanikadal and Shaheed Guni;

(c) On 21 January 1990, in Srinagar, the Central Reserve Police Force (CRPF) killed demonstrators, including women and children. According to an official account 60 persons died, but unofficial reports put the number of deaths at over 200;

(d) On 21 January 1990, in Srinagar, 15 persons were killed when military forces stormed a mosque;

(e) On 22 January 1990, during demonstrations, security forces killed four persons in Shaheed Gani and Khanyar and three persons in Anantnag;

(f) On 22 January 1990, in Srinagar, some 100 demonstrators were killed by the CRPF;

(g) On 23 January 1990, in Sonwan, security forces killed four persons who reportedly were attempting to contact United Nations officials in order to report human rights violations;

(h) On 26 January 1990, in Srinagar, over 400 persons were killed, including 12 children and five women, when over one million people demonstrated;

(i) On 1 March 1990, in Shalimar, Tengpura and Zakuna, 29 persons were killed by security forces firing into the crowd during demonstrations. Also at Tengpura, demonstrators returning home in buses were shot by the security forces when they were ordered to get out of the buses;

(j) On 21 May 1990, unarmed civilians were killed near the Islamic College in Srinagar when members of the CRPF opened fire indiscriminately on mourners accompanying the body of Maulana Mohammad Farooq, the head priest of Srinagar who had been shot dead by unidentified gunmen. Reportedly, official figures indicated that 20 persons had died immediately and 27 others later in hospital. Unofficial reports put the number of deaths as high as 154.

211. Furthermore, it was alleged that in Punjab, in a situation of political violence, 4,000 to 5,000 persons have been killed since June 1984 by the police or armed forces during arrests or while in detention. It was also alleged that the Punjab police issued in August 1989 an instruction to all District Senior Superintendents of Police, sanctioning rewards for "arrest/liquidation of wanted extremists/terrorists" with 53 names and

addresses of "terrorists" with the amounts of reward, thus granting members of the police a free hand to kill. In addition to those already transmitted to the Government, the following cases were received:

(a) On 15 May 1989, in Mandamarri, Adilabad district, Ramaswamy was detained by the police, but his detention was denied in response to a habeas corpus petition filed in the High Court. Later the police reportedly stated that a dead body in the Dodavari river bed near the village of Ludanam was identified as the corpse of Ramaswamy;

(b) On 21 June 1989, in Maniama, Jahanabad district, Ram Swaroop Choudhry and Vinay Yadab were killed by the police. The police reportedly stated that they were two extremists killed in an encounter;

(c) On 6 July 1989, in Tihar prison, Uttam Singh died in his cell under unknown circumstances;

(d) On 6 and 7 July 1989 respectively, Uttam Singhin and Manmohan Singh died in their cells in Tihar prison. Both men were arrested in 1988 by the Crime Branch, on charges of possessing contraband. Manmohan Singh was in good health the evening before his death when his wife visited him;

(e) On 16 June 1989, in Bham village, Batala, Srihargobindpur, the bodies of Sarabjit, aged 14, and Salwinder, aged 13, were found in a water-filled drain. According to the report, the two girls were abducted by a member of the Punjab Armed Police and strangled to death after being raped;

(f) On 23 July 1989, Kuljit Singh Dhatt, village chief of Ambala Jattan, in the district of Hoshiarpur, was arrested while visiting his relative in the village of Garhi, and was detained at the Tanda Police station. Her body was later found in the Bias River showing signs of torture;

(g) On 16 June 1989, in Sharifpura, Amritsar, Jaswant Singh and his three brothers were arrested by some 30 policemen and detained. While two of his brothers were released 10 days later, Jaswant Singh who was produced in the court following his arrest in an alleged encounter with the police, was stated to have later escaped from police custody. Jaswant Singh was reported, on 15 August 1989, to have been killed in an ambush while being transported by the police in the area under the jurisdiction of Kathunangal police station. In the ambush no policeman was reportedly injured. The body of Jaswant Singh was not shown nor was it handed over to his family;

(h) On 18 November 1989, in Amritsar, Parmjit Singh, aged 22, an assistant to a cloth merchant, was caught and beaten by six policemen while he was passing through Katra Ahluwala Market where there had been a bomb blast. A furious mob then snatched Parmjit Singh from the policemen beating and setting him on fire with kerosene. During the incident, the police neither intervened to stop the assault nor sought reinforcements. Despite the plea by the victim's family, autopsy was not held on the body of Parmjit Singh.

212. In addition, during the past year, in various parts of the country, several persons allegedly died in police custody as a result of torture. The following incidents were described:

(a) On 15 February 1989, in Khopoli, Raigad district, Maharashtra state, Jaggu Lakshman Chavan, aged 30, was arrested at his home by policemen from Palton Road police station, Bombay. Jaggu Lakshman Chavan died at Panvel municipal hospital on 3 March 1989 while in the custody of the Panvel police; he had been brought to the hospital from the police station the previous day. His family was not informed of his death until 5 March when his relatives saw his body at the hospital, swollen and covered with weals and bruises;

(b) On 2 May 1989, Mtihar Gazi, aged 50, an activist of the Communist Party of India from Khoronpur village, Bengal state, was arrested and taken to the Hasnabad police station. On 13 May 1989, his death was officially acknowledged. According to the report, he died as a result of torture in police custody;

(c) On 19 October 1989, in Uttar Pradesh state, Om Prakesh, aged 25, died in police custody at Geeta Colony police station. The police stated that Om Prakesh committed suicide shortly after having been brought in for questioning. The body of Om Prakesh was said to have been cremated hurriedly after a routine post mortem. No inquest into the circumstances of his death was known to have been held.

213. On 5 November 1990, a letter was sent to the Government of India transmitting allegations of incidents of killings in Jammu and Kashmir state by members of the Border Security Force, as follows:

(a) On 7 August 1990, in Mashali Mohala Hawal, Srinagar, at least 10 persons were shot by members of the Border Security Force (BSF) who forcibly entered seven private houses at around 10.30 p.m. Six persons died on the spot and four others died later. It was alleged that the members of the BSF carried out the killings in retaliation for an attack on one of their patrols in the area shortly before. The victims were said to include a 70-year-old man and a 7-year-old boy. Although the Governor reportedly announced later that an investigation into the incident had been ordered and that charges of murder and arson had been brought against the Director General of the BSF in connection with the incident, the outcome of the investigation was not yet known to have been made public;

(b) On 1 October 1990, in Handwara, Kashmir, at least 15 civilians were killed by members of the BSF in retaliation for the murder of one of their colleagues by a group of armed men advocating the secession of Jammu and Kashmir State from India. The victims were said to include Gulan Rasool Malik, a former legislator of Jammu and Kashmir State Assembly, who was dragged out of his house by members of the BSF and shot and also Gulan Nabi Shapoo, who was killed in the similar manner. In addition, one policeman was reportedly killed when he tried to stop the BSF from setting fire to local buildings.

214. On 28 November 1990, another letter was sent to the Government of India transmitting allegations that during the 32 months of the presence of the Indian Peace Keeping Forces (IPKF) in the north-eastern part of Sri Lanka under the Indo-Sri Lanka Accord signed in July 1987, a large number of unarmed

civilians were killed in a summary manner by members of the IPKF, or by Tamil groups allied to the IPKF and acting with their acquiescence. In addition to the alleged incidents of killings by the IPKF already transmitted to the Government, a report on the following incident was received:

> On 2 August 1989 in Valvettitturai, 52 persons were shot dead by IPKF soldiers when soldiers rampaged through the town, shot at residents and set fire to houses and other properties. The victims included Vengadasalam Subramaniam, aged 60, S. Illayaperumal, aged 70, Rajaguru Javanaraj, aged 11, Aathy Sundareswaran, aged 11. The attack was said to be the reprisal for the LTTE Valvettitturai market ambush on an IPKF patrol in which six soldiers were killed.

215. On 23 July 1990, a reply was received from the Government of India to the Special Rapporteur's cable of 30 March 1990 transmitting information on the alleged killing of more than 50 persons by security forces during demonstrations in Jammu and Kashmir. It was stated that while some deaths had occurred in certain towns of Jammu and Kashmir when security forces opened fire against demonstrators, the action taken by security forces was a last resort in self-defence and to protect public property against heavy stone-pelting and even firing and bomb attacks. The actions taken were completely in accordance with article 3 of the Code of Conduct for Law Enforcement Officials since force was used only when it was strictly necessary and to the extent required for the performance of their duty.

Indonesia

216. On 14 March 1990, the Special Rapporteur sent a cable to the Government of Indonesia regarding the information received that six persons who had been reportedly under sentence of death for their membership of the Communist Party of Indonesia (PCI) and for their involvement in the attempted coup of October 1965 or the Blitar rebellion of 1967, might be facing imminent execution. It was further reported that those who had appealed for presidential clemency had been informed that their appeals had been rejected. Their names were given as follows: Ruslam Widjayasastra, Sdkatno, Iskandar Subekti, Asep Suryaman, I. Bungkus, Mareudi.

217. In this connection, the Special Rapporteur, referring to his cables dated 3 June 1985 and 7 November 1988 in which he had appealed to the Government for the life of those sentenced to death for their involvement in the above-mentioned coup attempt and rebellion and having taken note with appreciation of the replies received from the Government, repeated his earlier appeals to the Government to spare the lives of the above-mentioned six persons.

218. On 26 July 1990, a letter was sent to the Government of Indonesia transmitting allegations that during the past year in Acheh, Sumatra, several civilians were killed in a summary manner by Indonesian soldiers, for their suspected support and sympathy for the Acheh/Sumatra National Liberation Front.

219. The following cases were described:

(a) On 20 January 1989, Yusuf Ahmad, a farmer in the village of Truseb, province of Pidie, was shot dead at his home by members of the Indonesian army;

(b) On 14 February 1989, Yunus Abdullah, 53, a farmer in the village of Labo Adang, was arrested and tortured by the army at the Lammeulo barracks. He died a few days after his release allegedly as a result of torture;

(c) On 2 May 1989, Zainuddin Faqih, 45, a businessman in the village of Truseb, province of Pidie, was shot dead in his house by members of the Indonesian army;

(d) On 12 June 1989, Pawang Ibrahim Puteh, 51, a farmer in the village of Tjubo, province of Pidie, was arrested and tortured at the army barracks in Lammeulo. On 15 June, he was brought to the village of Blang Keudah, where he was executed by the army;

(e) On 20 November 1989, in the town of Geulumpang Duwa, North Acheh, three young men were attacked and shot at their workplace by Indonesian soldiers in civilian clothes, resulting in the death of Zulkifli Hamid, aged 25, and Bakhtiar Ibrahim, aged 27;

(f) On 9 September 1989, Hadji Tjut, 63, a businessman from the town of Kruëng Geukuëk, North Acheh, Sumatra, was arrested and tortured in the Jalan Gandhi jail in Medan. Later his family received his clothes: this was said to be a customary indication of his death;

(g) On 15 January 1990, Muhammad Yusuf Sulaiman, aged 22, was shot dead at Lhok Seumawè Indonesian Military Prison;

(h) On 20 January 1990, Bukhari Abdul Rahman, aged 26, was shot dead at Lhok Seumawè Military Prison;

(i) On 5 February 1990, Zulkifli Abdul Gani, aged 24, was shot dead at Lhok Seumawè Military Prison;

(j) On 5 February 1990, Zakaria Ibrahim, aged 23, was shot dead at Lhok Seumawè Military Prison;

(k) Hasbi Ismail, aged 25, was shot dead by the Indonesian army in the market-place of the town of Panton Labu;

(l) On 15 February 1990, Anwar A. R. Ali, aged 24, was shot dead in Lhok Seumawè Military Prison;

(m) On 20 February 1990, Ibrahim Gayo, aged 25, was killed by the Indonesian army by drowning him in the sea off Lhok Seumawè, after members of the Indonesian army put him in a sack with both of his hands and both of his feet being tied together with ropes. Reportedly he was thrown into the sea and then dragged by an Indonesian naval boat until he died of suffocation.

220. In addition, it was alleged that in East Timor several persons were killed by army troops for their suspected sympathy for Fretilin (Frente Revolucionario de Timor Leste). The following two cases were reported:

(a) In January 1989, Josefina Facungo was raped and killed by army troops near Poros after the troops had forced her to accompany them into the jungle in search of her husband, an alleged Fretilin supporter;

(b) In June 1989, three unarmed young men were killed by Government forces while cutting wood outside the permitted timbering area near Ossu. The three were accused of being Fretilin spies, tied together and shot dead.

221. Furthermore, it was alleged that during the past year a number of persons died in custody as a result of torture or due to harsh prison conditions. Following are some examples of such allegations:

(a) In April 1989, Iwan Nirwana, a criminal suspect, died in police custody in Cianjur as a result of torture. In September 1989, another criminal suspect, Didin Tajudin, died in custody. His body reportedly was covered with open wounds and bruises. The police allegedly stated that he had committed suicide. No official inquiries into these deaths were known to have been conducted;

(b) In January 1989, Gustav Tanawani, convicted in 1984 of subversion, died in custody at Madiun jail after his requests for medical treatment were repeatedly denied;

(c) In September 1989, two prisoners died at the Kalimantan Timur prison due to harsh conditions.

222. On 6 November 1990, another letter was sent to the Government of Indonesia, transmitting alleged cases of killings of villagers in East Timor by Government forces as follows:

(a) On 13 August 1989, in Leotelo, Nunumogue, Francisco Magno, son of Larmanu and Bemali was shot dead by soldiers;

(b) On 29 March 1990, in Tua-Metan, Candido Amaral, aged 39, from Lalerek-Mutin was executed by firing squad. Allegedly he was arrested on 28 March and tortured together with three others by members of the security forces for suspected links with Fretilin.

223. On 29 May 1990, a reply was received from the Government of Indonesia to the Special Rapporteur's cable of 14 March 1990 concerning the alleged imminent execution of six persons under sentence of death, stating that news about the purportedly imminent executions of the six persons convicted for their involvement in the abortive coup attempt in 1965 was based on inaccurate information and presumptions, and that the six persons in question were still in detention awaiting the finalization of due process of law in their respective cases.

224. It was further stated that their guilt and direct involvement in the act of treason against the State and its lawful institutions had been proven beyond doubt through fair and public trials in full accordance with Indonesian criminal law and procedures, that all of them, regardless of their former professions, had been given the right to appeal through the High Courts as well as the Supreme Court in accordance with existing legal procedures and that they had also been given subsequent opportunities to plea for clemency.

225. It was also stated that, as clarified in the Government's reply of 4 January 1989 on a similar case, the seemingly long delay in the process of law should be seen in the light of the massive scale on which the abortive coup attempt took place which involved several thousand people, and that the presence of those already convicted and sentenced was required as material witnesses in related trials held throughout the country.

226. On 9 July 1990, a letter was received from the Government of Indonesia, to the Special Rapporteur's letter of 15 December 1989, (see E/CN.4/1990/22, para. 240) stating that due to a similarity of names, a mistake was made and that "Felix Ximenes" should read "Joaquim Ximenes".

227. On 27 September 1990 a reply was received from the Government of Indonesia to the Special Rapporteur's letter of 26 July 1990 transmitting information on cases as follows:

(a) Civilians allegedly killed in a summary manner by Indonesian soldiers for suspected support and sympathy for the Acheh/Sumatra National Liberation Front: (i) Bukhari Abdul Rahman was currently under police custody for interrogation; (ii) Zulkifli was also currently under police custody; (iii) Ibrahim Gayo remained under police custody. Among those killed in shootouts during military operations to restore peace and public order in the Province of Acheh were the following criminal gang members: (iv) Yusuf Ab, believed to be a leader of a band, on 1 July 1990 as he defied arrest; (v) Tenku Iskandar, Muhammad Elyas Syahrul and M. Anwar who were killed in separate shootouts after they shot innocent civilians and refused to surrender to authorities;

(b) Persons in East Timor alleged to have been killed by army troops for suspected sympathy for Fretilin (Frente Revolucionario de Timor Leste). The following information on cases was transmitted:

(i) Josephine Ximenes - not Josephine "Facungo", aged 30, was found dead on 29 January 1990 at 12.00 p.m. in Poros, an area restricted for security reasons and where she was believed to have maintained contacts with elements creating disturbances;

(ii) Uato Naha, aged 39, and Raul da Silva, aged 32, were killed on 31 May 1989 at 10.00 a.m., in Ossu Liquimeta, by security personnel after defying arrest in a restricted area;

(c) Persons who allegedly died in custody as a result of torture or harsh prison conditions:

(i) Iwan Nirwana, aged 21, under police custody in Pacet prison in West Java between 14 March 1989 and 9 April 1989, died as a result of a pre-existing illness. Reports of torture or maltreatment were groundless;

(ii) Didin Tajudin, aged 28, of Kampung Hardjalaksana, the village of Neglasari, Cianjurwest Java, committed suicide on 17 September 1989 in his prison cell. This was confirmed by the district physician who examined the body;

(iii) Gustav Tanawani, alias Harold Smith, aged 34, died on 8 January 1989 from an inflammation of the lung tissue affecting the heart after having reported to the prison clinic on 4 January. While in custody his right to physical and mental integrity was protected in accordance with applicable rules and regulations; therefore allegations of denial of medical treatment were unfounded.

Iran (Islamic Republic of)

228. On 26 January 1990, the Special Rapporteur sent a cable to the Islamic Republic of Iran concerning the allegation that 900 persons among 14,000 said to have been arrested since March 1989 for drug-trafficking were facing execution. According to the information, since the beginning of 1989, a large number of persons, said to have been convicted of non-political offences such as drug-trafficking, murder, rape and armed robbery had been executed after summary trials under instructions to the judiciary to speed up the punishment of crime. Defendants allegedly had no right to call witness in their defence, to legal representation nor had they had any effective right to appeal against the verdict or sentence. It was alleged that most recently, on 10 January 1990, 31 drug-traffickers had been executed.

229. In this connection, the Special Rapporteur referred to article 6 of the International Covenant on Civil and Political Rights to which the Islamic Republic of Iran was a party, in particular to article 6, paragraph 1, stating that "every human being has the inherent right to life", that "this right shall be protected by law" and that "no one shall be arbitrarily deprived of his life", and to article 14 of the same Covenant which provided for the rights of the defendant, including the right to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him, the right to have legal assistance and the right to appeal to a higher tribunal. He appealed to the Government to take all measures to ensure that the right to life of the 900 persons be protected.

230. On 27 April 1990, another cable was sent to the Government of Iran concerning information received that according to a report by IRNA, an Iranian News Agency, on 26 April 1990, "several people arrested for spying for the United States would be hanged in the next few days" and that these prisoners were 10 persons sentenced to death by an Islamic Revolutionary Court.

231. According to the report, proceedings before the Islamic Revolutionary Court had not guaranteed the rights of the defendant as provided for in article 14 of the International Covenant on Civil and Political Rights to which the Islamic Republic of Iran was a party. It was further alleged that prisoners had been held in indefinite incommunicado pre-trial detention where they had been often subjected to torture.

232. The Special Rapporteur, expressing his serious concern with the above-mentioned reports of imminent execution of the 10 prisoners, appealed to the Government to ensure that the right to life and other rights of the defendants be protected in every possible manner, and requested, urgently, information concerning the above-mentioned cases and in particular the trial proceedings in which they might have been sentenced to death.

233. On 11 May 1990, another cable was sent to the Government of Iran referring to the Special Rapporteur's appeal of 27 April 1990 concerning a group of persons who, according to a report by IRNA of 26 April 1990, "were arrested for spying for the United States of America and would be hanged in the next few days", by which a list of 11 names was transmitted.

234. Furthermore, the Special Rapporteur brought to the attention of the Government that in the reports he had received in the last few days, it had been again asserted that the rights provided for in articles 6 and 14 of the International Covenant on Civil and Political Rights and in safeguards 5 and 6 of the annex to Economic and Social Council resolution 1984/50 entitled "Implementation of safeguards guaranteeing the rights of those facing the death penalty" had not been respected by the tribunals issuing the death sentences.

235. In this connection, the Special Rapporteur addressed to the Government an urgent appeal to ensure that all rights of these persons as stipulated in the International Covenant on Civil and Political Rights to which the Islamic Republic of Iran was a party and, in particular, their right to life be fully protected, and to inform him of the measures taken in this regard. Should all legal remedies to which the defendants were entitled in accordance with the above-mentioned instruments be exhausted, he appealed to the Government to favourably consider granting clemency so as to spare the lives of these persons.

236. On 12 May 1990 another cable was sent to the Government of the Islamic Republic of Iran concerning Mr. Khalil Nahai, said to have been arrested one year before. According to the information, Mr. Nahai was said to be facing execution shortly and it was alleged that due process of law, which would guarantee the rights of persons accused before an independent tribunal, might not have been respected.

237. In this connection, the Special Rapporteur emphasized that the right to life is a most fundamental and crucial human right and appealed to the Government to ensure that no execution would take place, especially if such an execution was the result of a summary trial or any other procedure in which the rights of the individual were not fully protected. He also referred to articles 3, 10 and 11 of the Universal Declaration of Human Rights and to articles 6 and 14 of the International Covenant on Civil and Political Rights to which Iran is a party.

238. On 14 June 1990, the Special Rapporteur sent a letter to the Permanent Observer of Switzerland to the United Nations Office at Geneva referring to the assassination of Dr. Kazem Radjavi, an Iranian national residing in Switzerland, which took place on 24 April 1990 in the outskirts of Geneva.

239. The Special Rapporteur, having received several allegations that Dr. Radjavi, a leading member of an organization opposing the Government of the Islamic Republic of Iran, might have been killed by agents acting under the orders of that Government, stated that, while the Swiss authorities assume the primary responsibility of carrying out investigations into this case of killing which occurred within the territory under their jurisdiction, he, under the mandate entrusted to him by the Commission on Human Rights, was obliged to examine the case in regard to the above-mentioned allegations.

240. In this connection, he requested the Government of Switzerland to provide him with any pertinent information concerning the case in question.

241. On 26 July 1990, a letter was sent to the Government of the Islamic Republic of Iran transmitting allegations that during the past year supporters and suspected supporters of the People's Mojahedin Organization, and other civilians were executed, often after having been tortured. In several cases no trial was allegedly held before the execution and even when there was a trial, the defendants were not granted the right to legal counsel, the right to call witnesses nor the right to appeal to a higher tribunal.

242. Among those allegedly executed the following names were given:

(a) At Evin prison in Tehran: Rahman Khodabakhsi, on 21 January 1990; Mansoun Bashiri, aged 25, on 20 February 1990; Sayyed Ali, on 19 January 1990;

(b) In Rasht: Atta Nik-Bakhsh, in February 1990; Massoud Rousta, in February 1990; Mohammad Raujbar, aged 28, on 20 February 1990;

(c) In Adel-Abad: Mina Salati, aged 24, in September 1989;

(d) In Tabriz: Youssef Razavi, on 7 January 1990; Reza Rastegar, on 7 January 1990; Rahim Ghadaksaz, aged 21, on 7 January 1990;

(e) At Ghezel Hessan prison in Tehran: Hossein Azar Zamzam, aged 21, in December 1989;

(f) In Mashad: Hassan Saffaran, aged 48, in January 1990;

(g) In addition, on 19 February 1990, in Tehran and other cities, 30 persons were reportedly executed in public.

243. Furthermore, it was alleged that on 24 April 1990, in the outskirts of Geneva, Switzerland, Dr. Kazem Radjavi, a leading member of the People's Mojahedin of Iran, was assassinated by agents acting under the orders of the Iranian Government.

244. On 12 December 1990, another letter was sent to the Government of the Islamic Republic of Iran, stating that the Special Rapporteur had, during 1990, received numerous allegations of executions. During the period January to October 1990 some 550 executions were reported by non-governmental sources as officially announced executions. A list provided by the Government of executions carried out between 21 March and 8 October 1990, reproduced in Appendix X of the report of the Special Representative on the situation of human rights in the Islamic Republic of Iran to the forty-fifth session of the General Assembly (A/45/697), indicated 113 names of persons executed in Arak, Azarshahr, Bakhtaran, Borazjan, Boushehr, Eslamshahr, Lavasanat, Mashad, Mianeh, Najaf-Abad, Qom, Roudehen, Shiraz, Tehran and Zahedan.

245. It was also alleged that executions for drug trafficking offences had increased greatly since January 1989. On 21 January 1989 a new law on drug trafficking went into force, which provided for a mandatory death sentence for anyone found in possession of more than five kilograms of hashish or opium, or

more than 30 grams of codein, heroin, methadone or morphine. Between January 1989 and July 1990 over 1,100 people were allegedly executed for drug trafficking, in some cases combined with other charges. It was alleged that this figure rose sharply following an announcement at the end of August 1990 by the President of the Supreme Court that a special system was being set up to deal rapidly with drug trafficking cases and to ensure that convicted traffickers would be hanged within 15 days of arrest. In Mashad alone at least 113 persons were said to have been executed since September 1990. In various other cities including Tabriz, Kermanshah, Zahedan, Zabol, Mashad and Gorgan, more than 100 persons were reportedly executed during the last week of October 1990. It was alleged that among those executed for drug trafficking were a number of opponents or suspected opponents to the Government.

246. It was also reported that as of January 1990 several persons have been executed for their homosexual or lesbian tendencies. At least five such executions were said to have taken place in 1990.

247. The above-mentioned executions were reportedly accompanied by a number of executions for other offences: activities against the security of the country, spying, co-operation with armed rebels as well as cases of common crimes such as murder, armed robbery, kidnapping, rape and adultery. It was asserted that the death penalty was very broadly applied, frequently to vaguely defined offences which did not involve murder or serious bodily harm constituting the "most serious crimes" as referred to in article 6, paragraph 2, of the International Covenant on Civil and Political Rights.

248. Executions of political opponents allegedly continued in 1990. However, the number of reported executions for political reasons were inferior to the numbers alleged in the three previous years. Some of the executed had been re-tried while serving prison sentences or had already completed their terms of imprisonment at the time of their execution.

249. The majority of executions were reportedly carried out by hanging, often in public. It was said that such executions took place on purpose-built gallows, or the prisoners were hauled up by the neck by a crane or pulley, leading to a slower death by strangulation. In a few cases execution methods reportedly included stoning to death and beheading. A number of the condemned prisoners, prior to their execution, were allegedly subjected to torture. In the case of political opponents, executions were said to have been carried out secretly within prison compounds.

250. According to the information received, trials by which the defendants were sentenced to death were of a summary nature, without the safeguards designed to ensure a fair trial, as provided for in articles 6 and 14 of the International Covenant on Civil and Political Rights to which the Islamic Republic of Iran is a party. Although the judicial authorities of the Islamic Republic of Iran stated in their response of 5 June 1990 to the Special Representative on the situation of human rights in the Islamic Republic of Iran that the defendants tried by the Islamic Revolutionary Court were entitled to appoint legal counsel and could defend themselves during the trial, the absence of lawyers in practically all reported cases constituted a major deficiency in the procedures of the revolutionary courts.

251. It was also reported that trials before Islamic revolutionary courts usually took place in secret, sometimes inside prisons, and that hearings before such courts in many instances took place in a matter of minutes only. Other major shortcomings in the procedures of revolutionary courts were said to have consisted in the denial of the right of the accused to call witnesses in their own defence, and in the fact that an appeal procedure guaranteeing the rights of the accused in conformity with article 14 (5) of the International Covenant on Civil and Political Rights and the Safeguards Guaranteeing Protection of the Rights of those Facing the Death Penalty, adopted by the Economic and Social Council in 1984, were not available to the defendants.

252. Allegations on concrete cases of executions of a summary or arbitrary nature carried out in the past several months were reported as follows:

(a) On 10 October 1989, Hassan Saffaran was executed without trial;

(b) In October 1989, Davoud Mohammadi, a veterinarian in Arak, was executed on charges of drug trafficking. However, the real reason for his execution was said to have been his opposition to the Government;

(c) In November 1989, the family of Amir Taavoni-Ganji, who had been arrested in 1988 on his return to Iran for a short visit and detained at Evin prison, was told by the prison authorities to collect his clothes and other belongings, as he had been executed;

(d) It was reported on 16 January 1990 that a 31-year-old woman convicted for prostitution had been stoned to death in Bandar Anzali;

(e) It was reported on 31 January 1990, that the Komiteh Commander of the Province of West Azerbaijan announced that a ring of persons engaged in prostitution and corruption had been arrested and five of them had been stoned to death;

(f) On 14 February 1990 a judicial panel sent to Hamadan on behalf of the Head of the Judiciary reportedly issued the following sentences:

(i) Gholamhossein Golzar, 27 years old, a dismissed employee of the Agricultural Bank of Hamadan: 74 lashes for committing robbery; 92 lashes for participation in a forbidden act, and decapitation by the just sword of the Imam Ali;

(ii) Gholamhassan Golzar, aged 28, a dismissed employee of the Hamadan Municipality: 74 lashes for committing robbery; 74 lashes for participation in a forbidden act, and decapitation by the just sword of Imam Ali;

(iii) Reza Khanian, 23 years old, a fruit and vegetable centre clerk: 74 lashes for committing robbery; 50 lashes for participation in a forbidden act; amputation of hand for committing assault and battery and hanging by scaffold;

(g) It was reported on 15 February 1990, that Gholam Reza Masouri was hanged in Arak for pederasty;

(h) On 3 April 1990, Abbas Raissi, a navy officer stationed in Chah Bahar, arrested in September 1989, was executed in Zahedan prison. According to information received, his arrest, together with some other persons including his nephews and brother, Mohammed Karim Naroui, related to his association with an opponent to the Government who had been smuggled out of Iran. Mohammed Karim Naroui was reportedly executed on 28 January 1990, in Zahedan prison, after having been sentenced to death on the previous day. Although the Government's reply of 26 April 1990 to the Special Representative of the Commission on Human Rights on the situation of human rights in the Islamic Republic of Iran stated that he had been condemned to death on charges of espionage and that the death sentence was carried out after due process of law, details of his trial proceedings were not provided;

(i) On 17 and 27 April 1990, in Sanandaj, 18 persons, who had been arrested for their participation in May Day celebrations in 1989, were executed. Fourteen names were given as follows: Mehdi Bolur-Forush, Jamal Cheragh-Disi, Nader Fat'hi, Seid Saleh Hosseini, Naser Jalali, Ahmad Mohamadi, Ali Ashraf Moradi, Mohsen Othman Pour, Ahmad Parvizi, Mohamad Rozaii, Naser Sobhani, Anvar Shariati, Roya, Bakhtiari;

(j) On 3 October 1990, Mahmoud Khan-Darabi was executed in Kermanshah;

(k) The following four persons were said to have been executed in 1990 while serving prison sentences or after having completed prison sentence:

(i) Javad Rahmanian, arrested in summer 1981 and released in 1985, was executed in Jahrom, Fars province;

(ii) Massoud Keshavarz, arrested in Rasht, Gilan province, in 1981, was executed after having been imprisoned for nine years in Rasht, Evin and Qezel-Hessar (Karaj) prisons;

(iii) Davood Salahshour, aged 31, was executed in Tehran after serving six years of a nine-year sentence;

(iv) Hassan Salari-Hajiabadi was executed on 20 April 1990, while serving his sentence of imprisonment;

(l) Mohammad Heydari was executed without trial in Gachsaran in 1990.

253. Cases of assassination outside the country, allegedly by agents of the Government, were also reported. Among such incidents were the following:

(a) On 4 June 1989, Atayollah Byahmadi, a former colonel in the Shah's Intelligence Service, was shot dead in Dubai, in the United Arab Emirates;

(b) On 13 July 1989, Dr. Abdul Rahman Ghassemlou, leader of the Kurdish Democratic Party of Iran, was killed in Vienna together with two companions. In November 1989 the Austrian authorities issued arrest warrants for Iranian Government agents who had left Austria or gone into hiding in the Iranian Embassy in Vienna after the killings;

(c) In August 1989 a member of the Central Committee of the Community Party of Iran, Bahman Javadi, was killed in a street in Cyprus;

(d) On 22 October 1990, Professor Cyrus Elahi, a member of the Flag of Freedom Organization of Iran, was shot dead at his Paris home. He was found with numerous bullet wounds to the head. He had allegedly received repeated death threats;

(e) With regard to the assassination of Mr. Kazem Rajavi which was communicated to the Government by the Special Rapporteur's letter of 26 July 1990, it was stated in a press release issued on 22 June 1990 by the magistrate of the Canton of Vaud (le juge d'instruction cantonal) that the investigation had disclosed that 13 persons were implicated in the assassination and that all of them carried Iranian official passports with a description "chargé de mission".

254. On 28 May 1990, a reply was received from the Government of the Islamic Republic of Iran to the Special Rapporteur's cable of 12 May 1990 concerning the alleged imminent execution of a person named Khalil Nahai, stating that more information on the case would be required for further investigation. The Special Rapporteur requested the source for further information on the case. By the time of preparation of this report, no such information had been received from the source.

255. On 31 May 1990, a reply was received from the Government of the Islamic Republic of Iran to the Special Rapporteur's cable of 27 April 1990, stating that according to article 37 of the constitution of the Islamic Republic of Iran and as contained in the second paragraph of article 14 of the International Covenant on Civil and Political Rights, no person shall be considered guilty by law unless the accusation against him is proved by a competent court and the courts are naturally obliged to act accordingly, that in the light of information received by the Islamic Revolutionary Court, those people were arrested and tried in accordance with law and that they were entitled to appoint an attorney and they duly and freely defended themselves during the trial.

256. It was further stated that the sentences issued in accordance with the law could be reviewed in the Supreme Court, that after the issuance of the verdicts all the accused requested for a review by the court of appeal and that the verdicts of two of the accused were referred to another court for re-examination.

257. It was also stated that as the Special Representative of the Commission on Human Rights on the situation of human rights in the Islamic Republic of Iran mentioned in his report to the Commission on Human Rights (E/CN.4/1990/24, para. 245), the trials in all courts including the revolutionary courts were guaranteed by due process of law.

258. On 6 June 1990, a reply was received from the Government of the Islamic Republic of Iran to the Special Rapporteur's cable of 26 January 1990, denying the allegation of the imminent execution of 900 drug traffickers. It was stated that, according to the judicial procedures of the Islamic Republic of Iran, the accused should go through different stages of trial and after the issuance of the verdict by the court, it was to be implemented in due time and that the allegation, therefore, that the 900 persons (drug traffickers) were

waiting for execution was baseless. While rejecting the allegation of summary trials of criminals and drug traffickers, it was emphasized that by examining the files of those who were tried in special courts for drug trafficking and were condemned to death, the period of their trial took at least seven months and at most four and a half years, proving the allegation of summary trials groundless. It was stated that there were exceptional cases which were not related to drug trafficking but heinous and abominable crimes against the morals of the society, and that in such cases, instruction was given to the judiciary to speed up the trials while taking into account all regulations and procedures in accordance with law.

259. It was further stated that the right of the accused to hire a legal counsellor for defence in court procedures was recognized in the judicial system of the Islamic Republic of Iran and that in case the accused for one reason or another was unable to do so the court was obliged to hire a counsel for him or her on condition that the former accepts to defend the latter.

260. It was also stated that after the issuance of the verdict the accused had the right of appeal and the court was compelled to review the verdict and that in addition the head of the Supreme Court and Attorney-General could review the case. Therefore, it was stated that the allegation regarding the absence of right of the accused to ask for a review of the verdict was not valid.

261. The reply requested the Special Rapporteur to communicate to the Government any particular allegation with regard to a person or persons, so that more detailed investigations could be conducted and the results could be communicated to him.

262. On 19 December 1990, a reply was received from the Government of the Islamic Republic of Iran to the Special Rapporteur's letter of 26 July 1990 referring to the assassination on the outskirts of Geneva, Switzerland, of Dr. Kazem Radjavi allegedly by agents acting under the orders of the Iranian Government. The reply stated that the Government had condemned this act of murder despite numerous terrorist and murderous activities committed by the group represented by the deceased, noting that journalists who had made the same slanderous allegations as the Special Rapporteur had legally been charged on the basis of the Swiss Penal Code. The reply further protested the letter of the Special Rapporteur, demanding immediate rectification of the same, adding that the Special Rapporteur's letter of 26 July had not been sent to Tehran owing to its serious slanderous allegations.

263. On 3 January 1991, another reply was received from the Government of the Islamic Republic of Iran to the Special Rapporteur's cable of 27 April 1990 informing him that Bahman Agahy, Jamshead Amiry Bigvand, Hooshang Amjadi Bigvand, Manoucher Azar, Masoud Deadehvar, Kyanoosh Hakeany, Gahraman Malekzadeh and Masoud Payaby had been imprisoned for their crimes and were enjoying full constitutional rights. Their relatives had been informed of their respective situations. The reply stated further that Ardeshear Ashraf, Bahram Ikany and Heshmatollah Magsoody had been charged with espionage activities. Following the implementation of a full and complete due process of law, they were convicted of the charges and the final verdict, the death sentence, had been carried out accordingly.

264. On 4 January 1991, another reply was received from the Government of the Islamic Republic of Iran to the Special Rapporteur's letter of 12 December 1990 noting the issue about which a protest had been made by its letter of 19 December 1990 and which the Government had addressed publicly by its response to the press release of the magistrates of the Canton of Vaud of Switzerland.

265. The reply stated that the holding of any sort of passport by any number of persons did not constitute an allegation, noting further that all investigations by the Swiss authorities into the issue in question had been inconclusive. The reply therefore deplored, although in a modified manner, the Special Rapporteur's reference to this matter as an allegation which had serious legal bearings in an official correspondence.

266. The reply also noted that among the other cases cited in the Special Rapporteur's letter of 26 July 1990, those which were referred to as allegations of summary or arbitrary executions falling within the Special Rapporteur's mandate were not valid. The reply referred the Special Rapporteur to detailed information which had been provided to the Special Representative on the situation of human rights in the Islamic Republic of Iran, adding that it did not seem appropriate that the same information should be presented as allegations by two representatives of the same Commission on Human Rights simultaneously.

267. In addition, the reply stated that the letter of the Special Rapporteur advanced allegations based upon information from the most unreliable sources. Moreover, on the cases of assassination, it was stated that the Government of the Islamic Republic of Iran condemned any act of terrorism and assassination and that the cases, which had been mentioned in the letter, most likely had occurred as a result of an internal power struggle in the associated organizations or groups.

268. Finally, the reply noted that Mr. Ghasemloo was killed while in the process of reconciliation with Iran, a matter which, it was stated, had angered certain terrorist groups. No specific information was available on other cases of assassination mentioned in the letter. The reply demanded, therefore, that the Special Rapporteur should provide substantial evidence to justify his reference to these cases as allegations and should otherwise take immediate steps to rectify the situation.

Iraq

269. On 8 February 1990, the Special Rapporteur sent a cable to the Government of Iraq concerning the information that large numbers of persons, including unarmed civilians and army deserters had been killed or wounded as a result of military attacks by government forces in southern Iraq between 10 and 23 January 1990. Troops were said to have attacked over 30 towns and villages in the south. Affected areas were said to include al-Thawrs, Umm al-Shuwainj and al-Bazun (al-Basra province); al-Majar, al-Mukalabiyya, al-Sharira and al-Makars (al-'Amara province) and al-Jabayish, al'Umaidiyya, Abu Hadida and al-Mawajed (al-Nasiriyya province). According to the reports military action in the area was said to be continuing and the life of the civilian population to be in danger.

270. The Special Rapporteur, referring to article 6 of the International Covenant on Civil and Political Rights to which Iraq was a party, felt compelled to appeal to the Government on a purely humanitarian basis to ensure that the right to life of the civilians in the affected areas be protected in every possible manner.

271. On 13 March 1990, another cable was sent to the Government of Iraq concerning the information that Mr. Farzad Bazoft, a citizen of the United Kingdom and a journalist for the British newspaper The Observer, had recently been sentenced to death by a revolutionary court and was facing imminent execution. According to the reports, Mr. Bazoft had been arrested on 15 September 1989 in Baghdad airport after carrying out an inquiry into an explosion at an ammunition factory in al-Iskandria. He had been put on secret trial and convicted of spying after he had reportedly confessed on Iraqi television to working for Israeli intelligence. Furthermore, Mr. Bazoft had allegedly been denied the right to a fair and public trial, and in particular the right to have his conviction and sentence reviewed by a higher tribunal.

272. In this connection, the Special Rapporteur, referring to articles 6 and 14 of the International Covenant on Civil and Political Rights to which Iraq was a party and also to safeguards 5 and 6 of the annex to Economic and Social Council resolution 1984/50 of 25 May 1984 entitled "Safeguards guaranteeing protection of the rights of those facing the death penalty", appealed to the Government to make every effort to guarantee the right to life of Mr. Farzad Bazoft and requested information on the case and, in particular, on the legal proceedings according to which Mr. Bazoft had been sentenced to death.

273. On 26 July 1990, a letter was sent to the Government of Iraq transmitting allegations that in 1989, several persons were executed without trial or after a trial of a summary nature. The following cases were described:

(a) On 17 July 1989, at Hitteen military base in Amara, 16 soldiers, who had deserted during the war and later turned themselves in upon the announcement of the amnesty decree in September 1988, were executed after having been tortured. Among the 16, the names of 11 were given as follows: Majid Hani, Jasim Metasher Ibrahim, Khshan Ali Hussain, Salah Kradi Ajlan, Aghab Oda Sarhan, Gazi Sherji, Gedan Rehima Lafta, Falih Jasim Matter, Mohammed Jabbar Shlash, Mohammed Leaibi Salih and Nahi Tuuma Thijeel;

(b) Several military officers were executed in Baghdad in early January 1989 after having been arrested in December 1988 for an alleged coup attempt. The following officers were said to have been among the executed: Brigadier Hikmet Aplow, Brigadier Abdul Kadir Al-Shallawi, Brigadier Mohammed Mahmood and Lieutenant Colonel Sameer Sa'adalla (Air force);

(c) In addition, in 1989, in Baghdad, Kadhum Jabbar, a student at the College of Literature, Foreign Languages Department, Baghdad University, who had been arrested seven years ago, was executed.

274. On 5 October 1990 a cable was sent to the Government of Iraq concerning the information received that since 2 August 1990, in Kuwait, scores of unarmed civilians had been killed or executed in a summary manner by members

of the Iraqi forces. According to the information, a number of persons had been killed for failing to replace photos of the Emir with those of the President of Iraq. Some others had reportedly been hanged on the grounds of Kuwait university for their suspected opposition against the annexation of Kuwait after being accused of criminal offences. Furthermore, it was reported that since the introduction, on 11 August 1990, of the death penalty for harbouring Western nationals, looting and hoarding food for commercial purposes, one Kuwaiti national had been executed in September 1990 for harbouring an American citizen. Ten persons were said to have been executed for looting.

275. In view of the above-mentioned information, the Special Rapporteur, expressing his serious concern for the lives and safety of civilians in Kuwait, appealed to the Government to ensure that the right to life of civilians in Kuwait be protected in every possible manner and requested information from the Government on the above-mentioned reports.

276. On 30 October 1990, a letter was sent to the Government of Iraq transmitting allegations of violations by Iraqi forces in Kuwait of the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War including violations of the right to life. Cases of violations of the right to life were reported as follows: (a) Adel Al-Dashti; (b) Ahmed Hamza; (c) Mohammed Ali; (d) Issa; and (e) Abdulhadi. All were hospital staff of the Al-Addan hospital in Kuwait on 9 September 1990 who were arrested and reportedly tortured when two wounded Iraqi military were admitted to the hospital and according to the Iraqi officials, inadequately attended. (f) Bader Rajab, manager of the Al-Sabahiya supermarket, shot dead by Iraqi forces when he reportedly refused to obey demands for foodstuff.

277. On 6 November 1990, another letter was sent to the Government of Iraq, transmitting alleged cases of summary or arbitrary executions in Iraq. The issues raised were as follows:

(a) In mid-April 1989, at Dibs garrison near Kirkuk, at least seven Kurds were reportedly executed for their alleged links to the Pesh Merga forces. The seven executed were named as follows: Saber Sa'di, Qader Sa'di, 'Abdallah Mala Muhammad, Darwish Mala Muhammad, 'Abd al-Karim Chitto, Saber Hamad and Hatem Hamad. The executed were said to have returned to Iraq from Turkey in order to benefit from the amnesty decrees promulgated in September 1988;

(b) On 11 July 1990, Jalil Mahdi Saleh al-Nu'aimi, a naturalized Swedish national was reportedly executed by hanging, after having been sentenced to death on 30 April 1990 by the Revolutionary Court in Baghdad for "having connections with a secret intelligence organization". It was alleged that Jalil Mahdi Saleh al-Nu'aimi had been held in pre-trial detention for some eight months, that his trial before the Revolutionary Court was held in camera, that his right of defence was either severely curtailed or denied altogether and that he had no right to appeal against the verdict nor the sentence.

278. In addition, further information was transmitted concerning alleged killings and executions in Kuwait by members of the Iraqi forces since 2 August 1990. According to several eyewitnesses, killings and executions by

the Iraqi forces in a summary manner outside the context of armed conflict were widespread. The number of those killed or executed was said to be very high although no exact figures were given. The victims included Kuwaiti men, women and children and a number of foreigners.

279. The following incidents in Kuwait City which were said to have occurred in August and September 1990 were reported by witnesses as follows:

(a) A man was shot dead by Iraqi soldiers after he was forced to watch his wife raped by the same soldiers;

(b) A man suspected of being a member of the resistance was shot dead by Iraqi soldiers after having been tortured in order to extract information on the resistance;

(c) At the entrance of Sabah Maternity Hospital, a woman in labour, being prevented by soldiers to enter, was bayoneted through her stomach;

(d) Two boys were executed in a market place by Iraqi soldiers in full view of their mother, sister and brother who were called out of the house;

(e) The Imam Khalik Ad-Samhan, who delivered a speech at a mosque in a Friday ceremony, condemning the Iraqi invasion, was tortured and shot dead. His body was dumped near the mosque. An Islamic scholar named Mahmood Khalifa al-Jasim was tortured and killed at the Salimyia area;

(f) A Kuwaiti military officer was publicly executed in front of his family's home after having been tortured for 10 days. He had been arrested when he was discovered while in hiding;

(g) Fifteen people were executed after Iraqi forces extracted the names of the 15, said to be in the resistance movement, from a man by torturing him;

(h) At the Mubarak El Kabeer Hospital, all the patients, most of whom were in a serious condition, were removed by Iraqi soldiers from their beds into the hospital corridors by force. Blood transfusions were prohibited, life support machinery removed and other vital medical treatment denied, resulting in the death of half of the patients;

(i) At Salimiya area, several persons were castrated and hanged;

(j) At the Al-Adan hospital, 15 premature babies in incubators were taken out of the incubators by Iraqi soldiers and left on the floor to die;

(k) On 8 August 1990, a group of some 35 women and youths demonstrating in the Jabiriyya district were fired at by Iraqi soldiers. Two boys aged 13 and 16 and a 20-year-old woman were killed;

(l) On 11 August 1990, Douglas Croskery, a British national was reportedly shot dead by Iraqi soldiers as he attempted to leave Kuwait for Saudi Arabia. On 21 August 1990, three Pakistanis were also reported to have been killed under similar circumstances.

280. On 12 December 1990, another letter was sent to the Government of Iraq concerning two incidents of killings in Kuwait by members of the Iraqi forces which were reported as follows:

(a) On 9 September 1990, at Al Addan hospital, five hospital staff were arrested, tortured and then executed by Iraqi military personnel, on the pretext that the staff had been lax in attending to injured Iraqis. The names of the victims were given as: Adel Al-Dashti, Ahmed Hamza, Mohammed Ali and two identified as Issa and Abdulhadi;

(b) Bader Rajab, manager of the Al-Sabahiya supermarkert, was executed for refusing to obey demands by the Iraqi forces for foodstuff.

281. On 13 February 1990, a reply was received from the Government of Iraq to the Special Rapporteur's cable of 8 February 1990, denying all the information contained in the cable. It also stated that the area referred to in the cable had been and was still open for Iraqis and foreigners.

282. On 26 and 27 March 1990, replies were received from the Government of Iraq to the Special Rapporteur's cable of 13 March 1990 concerning the execution of Farzad Bazoft, stating that Bazoft was not subjected to any ill-treatment or coercion while in detention, that he confessed on television that he had been involved in spying activities for the Israeli Mossad against Iraq at a time when Iraq and Israel are in a state of war and that Bazoft stated his confessions in a written statement which he wrote in English, and then restated them in front of the British Consul in Baghdad.

283. It was also stated that Bazoft had a fair trial which was conducted in accordance with Iraqi law, that he was defended in a court of law by a lawyer appointed by the British Embassy and that the trial was attended by the British Consul in Baghdad.

284. The reply further stated the following:

(a) He was an Iranian national residing in the United Kingdom since 1975. He carried British travel documents and worked for The Observer of London;

(b) He visited Iraq on six occasions in April 1988, May 1988, July 1988, December 1988, February 1989 and September 1989. He was arrested while on his last visit;

(c) Investigation revealed a number of facts to which Bazoft confessed during questioning and which he then stated both in writing and on television. These facts are as follows:

(i) Bazoft had been recruited by the Israeli Mossad and British intelligence (the secret police) and been working for them since 1984;

(ii) Bazoft had been instructed to carry out a number of missions inside Iraq using his cover as a journalist. He had received £600 for this purpose. His job was to take and obtain photographs of Iraqi military sites and military commanders, and to gather information

and submit his own analysis in relation to a number of installations and activities in Iraq, such as the Iraqi nuclear reactor, the use of chemical weapons and the general and economic situation in the country. During his repeated visits to Iraq, Bazoft submitted many reports containing whatever information he could obtain on these matters;

(iii) On his last visit to Iraq, Bazoft had been instructed to collect information on the subject of the explosion that had taken place at an industrial military facility near the city of Hilla. This was, of course, totally incompatible with the subject which he had been invited by the Iraqi authorities to cover, namely "the elections of the Legislative Council of the autonomous Kurdistan region in northern Iraq". In order to accomplish his espionage mission, Bazoft was assisted by Mrs. Daphne Parish, a British nurse working in Baghdad, to get to the explosion area in her own car disguised as an Indian doctor. He was able to take soil samples from the area along with various bits of material which he was planning to send to London;

(iv) As soon as questioning was completed, the Consul at the British Embassy in Baghdad was granted permission to meet Bazoft on purely humanitarian grounds. Bazoft was not a British subject, which means that the Iraqi Government was under no obligation to grant the British Embassy access to him under the Vienna Convention or any other agreement. The British Consul had four meetings with the prisoner, three of which were attended by the lawyer appointed by the British Embassy to conduct his defence. The British Consul was also invited to attend the proceedings of the whole trial, which began on 8 March 1990 and were completed on 10 March 1990. The defendant and his lawyer had been given ample time to prepare their case;

(v) As regards Nurse Daphne Parish, she had collaborated with Bazoft and helped him, on no legal or professional grounds, to get to the area he had wanted to see and assisted him in obtaining information and material. Prior to her trial, the Iraqi authorities had granted her permission to have four consular meetings three of which were attended by the lawyer the British Embassy had appointed to conduct her defence.

285. On 30 March 1990, a communication from the Government of Iraq was received by the Special Rapporteur, enclosing a statement issued by Organization of Friendship, Peace and Solidarity in Iraq concerning the execution of Farzad Bazoft.

286. On 31 July 1990, a reply was received from the Government of Iraq to the Special Rapporteur's letter of 26 July 1990 stating that the allegations transmitted were totally unfounded.

287. On 18 December 1990, a reply was received from the Government of Iraq to the Special Rapporteur's letter of 6 November 1990, stating that the Iraqi authorities had not taken any measure against persons benefiting from any of the amnesty decrees, including the decree promulgated in 1988 and that all

those who returned to the country were living with their families in the same residential areas in which they had been formerly domiciled. It was also stated that the internal legal measures were applied in the case of all offences committed after the expiration of the period of amnesty.

288. With regard to the person named Jalil Mahdi Saleh al-Nu'aimi, a Swedish national of Iraqi origin, it was stated that he was condemned to death and executed in accordance with Iraqi law, under which espionage is prohibited and constitutes high treason punishable by death. According to the reply, the person in question made a confession, acknowledging that he had engaged in espionage for the benefit of a foreign body, namely the Israeli Mossad organization, on whose behalf he had gathered information on Iraq. It was stated that the Swedish Consul at Baghdad attended the investigation and trial proceedings and was also present at the execution and that Jalil Mahdi Saleh al-Nu'aimi enjoyed all the legal safeguards required under Iraqi law, including the appointment by the Swedish Embassy of a lawyer to defend him.

289. With regard to the allegations concerning Kuwait, it was stated that those allegations were untrue and formed part of the campaign conducted by "Imperialist Powers", whose interests had been prejudiced, with a view to besmirching Iraq's reputation. With regard to the alleged killing of Douglas Croskery, it was stated that the British Embassy at Baghdad was notified, in response to its request, that there would be no objection to its dispatch of a consular official to the area in which the above-mentioned British national was alleged to have been killed in order to seek information concerning his whereabouts.

Israel

290. On 9 October 1990, a cable was sent to the Government of Israel stating that on 8 October 1990 on the Temple Mount of the Old City of Jerusalem, 22 persons had been killed when the police and armed Jewish civilians had opened fire on Palestinian demonstrators and bystanders. Although the police had reportedly claimed that a crowd of 2,000 Palestinians had thrown rocks and stones on Jews praying at the Western Wall and had attacked and burned a police station of the Temple Mount, it had been alleged that the Israeli authorities had resorted to an excessive use of force, including live ammunition, to regain control.

291. The Special Rapporteur, feeling concerned with the loss of lives in the incident, appealed to the Government of Israel to take all necessary measures in order to prevent further loss of lives in similar circumstances and requested information on the above-mentioned incident, the outcome of any investigation on the incident and the measures taken by the authorities to prevent the recurrence of such deaths.

292. On 1 November 1990, a letter was sent to the Government of Israel transmitting allegations that during the past year, numerous incidents of killings were reported in connection with the uprising in the occupied territories. It was stated that according to statistics released on 2 August 1990 by Betzelem, the Israeli Information Centre for Human Rights in

the Occupied Territories, 676 Palestinians were shot and killed by security forces since the beginning of the uprising in December 1987 until the end of July 1990. They included 158 children under 16 years of age. In addition, 31 Palestinians were said to have been killed by Israeli civilians and 8 were shot and killed by Palestinian collaborators, whereas 10 Israeli Defence Forces (IDF) soldiers and 9 Israeli civilians, including 3 babies, were killed in the territories during the same period. At the same time there was reportedly an increase in the number of Palestinians killed by other Palestinians for suspected collaboration with the Israeli authorities. According to one source, the number of such killings during the same period was 243. These killings were said to be the results of the prolonged period of Israeli occupation and the unprecedented level of violence it has engendered and many of these deaths in the occupied territories were reported to have occurred during violent clashes between Palestinian protesters and the IDF. However, other persons were allegedly killed by IDF troops during house-to-house searches, at roadblocks, during pursuit after clashes, and in circumstances other than violent clashes.

293. Furthermore, it was alleged that these deaths occurred often in circumstances suggesting excessive use of force or deliberate killings. According to the Betzelem report in July 1990, in almost 50 per cent of the cases the IDF found that soldiers had violated cease-fire orders. The report cited statistics showing that soldiers were indicted for 12 incidents of killing by the end of December 1989. It was also alleged that investigation of killings by the IDF was almost all based exclusively on accounts by soldiers.

294. It was also stated that the reports of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories to the forty-fifth session of the General Assembly (A/45/84, A/45/306 and A/45/576) list 140 incidents of killing by IDF troops and Israeli civilians for the period October 1989 to 10 August 1990.

295. The following describe some alleged cases in which troops used force in an excessive or illegal manner:

(a) On 5 October 1989, in Bidu, near Jerusalem, Khaled Abu Id, aged 20, was shot in the heart from a distance of two metres when soldiers opened fire at youths manning a barricade;

(b) On 9 October 1989, in Nablus, Nidal al-Habash, aged 22, was killed by troops when masked youths defied a curfew and incited others to demonstrate. It was alleged that he was shot dead from a short distance, after he was wounded and could not escape, and that the troops prevented an ambulance from evacuating him;

(c) On 26 October 1989, in Jabaliya, Gaza, Adel Mahmud Abu Salim, aged 19, was killed by troops who opened fire at masked youths. It was alleged that four soldiers in civilian clothes had entered the camp in a civilian car and opened fire on the youths;

(d) On 26 October 1989, in Al-Khadar, Karim Da'amseh, aged 18, was killed by policemen during a car chase in Beit Jala after he failed to obey an order to stop. According to an eyewitness, a policeman shot Karim Da'amseh at point-blank range after he surrendered. The police reportedly opened an inquiry;

(e) On 6 November 1989, in Kalkilya, Wa'el al-Haj Hassan, aged 20, was killed by troops as he was trying to cross the border into Jordan. He had been wanted by the security forces since the beginning of the uprising;

(f) On 1 December 1989, in Nablus, Imad Nasser, aged 26, Hanin Tayem, aged 19, and Omar Grafat, aged 28, were killed by a group of soldiers in civilian clothes who entered the casbah of Nablus and opened fire. Masu'd Labada Batiri, aged 15, a passer-by, was also killed;

(g) On 20 December 1989, in Gaza, Khaled Abd el Sheikh Ali, aged 27, died in the interrogation ward in the Gaza prison;

(h) On 7 January 1990, in Bethlehem, Fahdi Khalil Zabakli, aged 18, died in hospital of wounds sustained the previous month when border policemen shot him in the head while chasing masked youths. It was reported that a film of the incident showed that Fahdi Khalil Zabakli was shot as he was fleeing, without warning shots being fired;

(i) On 5 April 1990, in Jalazua camp, Mustafa al-Jaru, aged 15, was killed by troops who fired a rubber-coated steel pellet during a clash. It was alleged that he was shot by a sniper deliberately and without provocation, without warning or an order to halt;

(j) On 7 July 1990, at the Ofer detention camp near Ramallah, Sahri Abed Rabo, aged 18, was shot in the head and killed by troops when he was spotted climbing over the fence of his tent compound. The troops reportedly shouted warnings and fired in the air before firing at the detainee. The incident was said to be under investigation;

(k) On 10 August 1990, in Ya'abad, Basel Hamarsheh, aged 22, was shot in the head and killed by a soldier. He had been wanted for two years.

296. On 22 October 1990, a reply was received from the Government of Israel to the Special Rapporteur's cable of 9 October 1990 with regard to the events of 8 October 1990 on the Temple Mount, stating that a special committee of inquiry had been established to investigate the case.

Malawi

297. On 26 July 1990 a letter was sent to the Government of Malawi transmitting an allegation that in March 1989 Fred Sikwese, an employee at the Ministry of External Affairs, died at Lilongwe prison after having been arrested in February 1989 on suspicion of passing confidential government information to sources outside the country. Reportedly no charges have been brought against him. He was allegedly tortured prior to his death and was buried at Lilongwe prison grounds after the authorities reportedly refused to release his body for burial by his relatives. It was further alleged that no investigation was undertaken with regard to his death.

298. On 5 December 1990 a reply was received from the Government of Malawi to the Special Rapporteur's letter of 26 July 1990, stating that with regard to the case of Fred Sikwese, the verdict of the coroner's inquest concluded that his death was due to hepatitis and not as a result of torture as alleged. It also stated that he was not arrested on suspicion but caught in flagrante delicto, passing on government information to agents of foreign powers, and that charges were not brought against him because he died at Kamuzu central hospital before the matter was taken up by the court.

Mali

299. On 6 November 1990, a letter was sent to the Government of Mali transmitting allegations that following armed attacks by Tuaregs in north-eastern districts of the country in late June and July 1990 in which over 150 government officials and civilians were reportedly killed, government troops took reprisals against Tuareg civilians and killed some 120 persons. It was alleged that in a state of emergency and a curfew declared on 20 July 1990 in the north-eastern districts of Gao, Kidal, Ménaka and Timbuktu, the police and military were authorized to use armed force with immunity from prosecution in advance for acts committed in the exercise of emergency powers.

300. Incidents of execution included the following:

(a) On 3 August 1990, in Gao, 11 Tuaregs, including a woman, were executed after having been tortured. One of the victims was named as Khassan ag Mahmoud, a chauffeur-mechanic;

(b) On 6 August 1990, in Ménaka, four Tuaregs were executed, including Akhmed ag Makhakha, aged 80, a leader of a Tuareg group, the Ichadanharen, and Issouf ag Dandan, an official in Tidaghmen of the ruling party, the Union démocratique du peuple malien;

(c) Four Tuaregs were executed in Kidal, including Intiyaden ag Babakar;

(d) Two Tuaregs were executed in Tin Essako, Kidal district, including Sidakhmad ag Umana;

(e) Nine Tuaregs were executed in Tamesna, including Bachar ag Khamadin, a 10-year-old boy.

301. At the time of preparation of the present report, no reply had been received from the Government of Mali.

Mauritania

302. On 26 July 1990, a letter was sent to the Government of Mauritania transmitting allegations that in the southern part of the country villagers were killed by members of the National Guard in a summary manner. These killings have allegedly taken place since April 1989, following intercommunal violence. Killings reportedly occurred not only during curfew hours but also outside them. The victims were allegedly suspected of having clandestine contact with groups based in Senegal opposing the Government. No investigations by the police or judicial authorities concerning the killings were said to have been carried out.

303. The following cases were described:

(a) In October 1989, Hadiya Bâ, a teacher at Kalignoro and municipal council member in Boully town, was killed by members of the National Guard;

(b) In November 1989, in Guiraye-Réwo village, Kaédi region, Djéol Demba Sarr, aged 57, a cattle herder, his son Daidou Sarr, aged 20, and Kadiata Sarr were killed by members of the National Guard;

(c) In 1989, in Wotji village, Abou Sara Diop, Mamadou Idi Diop and three brothers were killed by members of the National Guard;

(d) On 5 March 1990, outside the village of Djéol, Abdoul Bouka N'diaye, aged 30, a former soldier, and Mamadou Gninguel N'diaye, aged 19, were killed allegedly after torture by the National Guard during custody;

(e) In January 1990, in Djéol, Hamady Djouma Bâ, aged 50, a fisherman, was killed by the National Guard when he left the village early in the morning, apparently while curfew was still in force;

(f) On 10 April 1990, outside the village of Moujdi, in Sélibaby District, seven villagers were killed by members of the armed forces and of a militia working closely with the armed forces, after having been detained and taken away from the village. Among the seven victims were Silly Youmé Bâ, aged 47, from Moujdi village; Deya Sow, from Moujdi village; and Demba Mamadou Sow, from Wendou-Goubé village;

(g) On 12 April 1990, Thierno Saïbatou Bâ, aged 57, a Muslim religious leader from the village of Ngoral-Guidal, near Boghé, was shot dead by members of the National Guard, after he had taken a swim in the Senegal river.

304. On 21 October 1990, a reply was received from the Government of Mauritania to the Special Rapporteur's letter of 26 July 1990 stating that the laws in force in Mauritania respected and protected the right to life of all citizens and individuals within the territory.

305. It further stated that the judiciary guaranteed the respect for national legislation and that all actions of those responsible for the application of the law was submitted to regular control through which abuses were punished in accordance with the national law. It finally stated that all complaints were heard by the courts and that this recourse was available to all citizens and individuals within the territory.

306. On 6 November 1990, a letter was sent to the Government of Mauritania transmitting allegations that during the first half of 1990, in the southern part of the country, an increasing number of persons belonging to a black ethnic group, the Hal-pulaar, were killed by the army and National Guard as well as the Haratine militia. A large number of victims, almost all unarmed villagers, were said to be inhabitants of towns and villages along the Mauritanian bank of the Senegal river. Killings allegedly took place during searches in villages by members of the security forces and Haratine militia after raids by armed groups from Senegal or Mali or after villagers fled to these two countries to escape from the security forces.

307. It was further alleged that the security forces and the Haratine militia responsible for these killings were given total immunity and that none of these killings were allegedly investigated by the judiciary authorities.

308. The following incidents of killing were reported:

(a) On 10 April 1990, in Moudji, near Sélibaby, seven persons, including Silly Youmé Bâ, aged 47, and Mamadou Demba Sall, aged 22, were arrested by a patrol of soldiers and Haratine militia. They were taken some kilometres from the village and executed;

(b) On 20 April 1990, in Woyndouyoli, near Sélibaby, some 60 armed Haratines, escorted by two soldiers, arrested 15 persons and executed 4 of them, including Harouna Ousmane Sow and Adama Souleymane Bâ. The soldiers then took away the remaining 11 persons, 7 of whom, including Adama Oumar Diallo, were subsequently executed;

(c) On 7 May 1990, in Belendendi, near Laqceiba-Gorgol, in Kaédi region, Dia Bocar Hamadi, aged 30, was killed by National Guardsmen stationed at Talhaya;

(d) On 13 June 1990, in Ganki village nar Boghe, Silèye Lam, aged 30, was arrested by members of the National Guard shortly before a nightly curfew came into force, and was taken together with Thierno N'Gom, another villager. The following morning, Silèye Lam was found shot dead.

309. At the time of preparation of the present report, no reply had been received from the Government of Mauritania.

Mexico

310. On 11 July 1990, a letter was sent to the Government of Mexico transmitting the following allegations:

(a) On 21 May 1990, in Sinaloa, Norma Corona Sapiens, aged 38, President of the Commission for the Defence of Human Rights in Sinaloa and President of the Colegio de Abogados Clemente Vizcarra (Clemente Vizcarra Lawyers' Association), was killed by unidentified armed men. In March 1990, she had allegedly received death threats from members of the Federal Judicial Police (PJF). Norma Corona had been conducting investigations into a number of cases allegedly involving agents of the Federal Judicial Police (PJF). These investigations included the deaths in Sinaloa of three Venezuelan and one Mexican lawyer earlier that year. The bodies of the four lawyers were found in a common grave on 11 March 1990, showing signs of torture and gunshot wounds. They had been abducted from their homes in Culiacán, capital of Sinaloa, on 22 February 1990, and were allegedly killed at the headquarters of the PJF in Culiacán;

(b) Andrés Martínez Díaz, aged 23, a fisherman from Rio Grande, municipality of Tututepec, Oaxaca State, was arrested on 8 February 1989 allegedly by a sub-lieutenant of the armed forces. Witnesses saw Díaz in military custody, showing signs of torture. On 9 August 1989, the Government reported that Díaz was found dead in Cacalote, Tututepec;

(c) On 4 September 1989, in Villahermosa, Tabasco State, several persons including Jesús Martínez Ruiz, were detained by the Federal Judicial Police (PJF). Some days later the body of Ruiz was found at the Ranchería Sabina cemetery, in Centro municipality. It was alleged that Ruiz died as a result of torture during detention at the offices of the Federal Judicial Police (PJF).

311. On 25 July 1990, a cable was sent to the Government of Mexico concerning Investigator Jorge G. Castañeda, member of the Governing Council of the Mexican Committee for the Defence and Promotion of Human Rights, said to have received death threats through his secretary, Mariana Rodríguez Villegas, who was stopped by four armed persons, questioned about the movements and the private domicile of Mr. Castañeda and his family, and told that he would be killed if he "persisted with what he was writing", a reference to articles in the press in which Mr. Castañeda had attacked police involvement in drug trafficking. It was also reported that Ms. Rodríguez Villegas had been stopped a second time and threatened with death in a road accident if she continued to collaborate with the investigations which had been taking place to identify those responsible for the threats.

312. Information had also been received concerning the case of Mr. Victor Clark Alfaro, who had published accounts of the alleged torture of minors. He had received a death threat by telephone on 13 June 1990 and believed that those responsible were members of the security services involved in the events he had described in his accounts.

313. Serious concern was particularly expressed for the lives of these people, since, according to them, another human rights activist had been killed in Sinaloa State after receiving threats. Such actions created a climate of insecurity and violation of human rights, in which human rights activists were allegedly singled out as victims.

314. The Special Rapporteur appealed to the Government to take all measures at its disposal to protect the right to life of the two persons threatened with death, and requested information in this regard.

315. On 9 November 1990, another letter was sent to the Government of Mexico transmitting several cases of killings instigated by various incidents but signalling, according to the reports, underlying problems in the system which despite Goverment initiatives required further attention. Three patterns of killings are described as follows:

(a) Reports of killings of peasants or indigenous people in the context of land disputes affecting particularly the Triqui people of Unión de los Angeles in the State of Oaxaca as follows:

(i) Paulino Martínez, founder of the Movimiento de Unificación y Lucha Triqui (MULT) (Movement for Triqui Unification and Struggle), and his nephew, Bonifacio Merino Delia, were ambushed and killed on 23 January 1990 in Rio Logarto, Oaxaca, as they collected signatures to organize a Triqui co-operative for direct sale of their coffee harvests. According to reports, Mr. Martínez had publicly critized and made a formal complaint against local landowners in December 1989 for their alleged involvement in

(ii) Manuel Velazco Ortega, aged 39, member of MULT, on 22 February 1990 was shot dead in his home by individuals wearing police uniforms. His wife reportedly filed complaints with the Public Ministry agent and the Attorney-General for the State of Oaxaca. According to information received an autopsy was not performed and no investigation took place;

(iii) José Antonio Simón Zamora, aged 32, an officer of the Unión Nacional de Organizaciones Regionales Campesinas Autónomas (UNORCA) (National Union of Regional Organizations of Autonomous Peasants), was killed on 1 February 1990 in his home in Pátzcuaro, Michoacán, by individuals wearing military clothing;

(iv) Santiago Merino Hernández, aged 30, member of MULT, was shot dead on 2 May 1990 in Oaxaca after having been harassed and threatened. Another MULT member was wounded. MULT filed a complaint with the secretary of the Ministry of the Interior. Reports indicate no investigation has taken place;

(v) In addition, Juan Domingo Pérez Castillo, aged 41, member of MULT, was continually threatened since an attempt on his life by a well-known gunman in 1989. Several complaints were filed with local authorities, but no investigation was known to have been initiated.

(b) Killings in the context of political elections have also taken place. According to reports, no efforts were made by the Partido Revolucionario Institucional (PRI-affiliated authorities to investigate the following cases:

(i) Ignacio Murillo Guzman, a candidate of the Partido Revolucionario Democrático (PDR) (Democratic Revolutionary Party) in the municipality of Huandacareo, Michoacán, was killed on 7 January 1990, allegedly by the outgoing secretary of the town council. The Attorney-General had not filed charges in the case;

(ii) Adelaido Barrera, Ismael Reyes and Antonio Pablo Victoriano, members of the PRD, were killed on 13 January 1990 as they left the town hall of Durazno, Guerrero, where they discussed with authorities a postponement of municipal elections in Tixtla. No investigation of the case was initiated;

(iii) Salvador González and Cipriano Chacon, members of the PRD, were killed on 19 January 1990 in front of the municipal government building in Jungapeo, Michoacán, allegedly by PRI gunmen;

(iv) Javier Macias Salacedo was killed on 23 January 1990 by PRI members in Jacona, Michoacán, after a dispute concerning local taxes;

(v) Santos Hernández García, watchman of the local PRD, was killed on 23 January 1990 in Coyuca, Guerrero;

(vi) Florentino Salmerón García and Donasiano Rojas, members of the PRD, were killed on 27 February 1990 in a confrontation between the PRD and police during a peaceful march for which permission from authorities had been granted (García in Zihuatanejo and Rojas in Acapulco).

(c) Other reported cases are as follows:

(i) Héctor Ignacio Quijano Santoyo, Jaime Quijano Santoyo and Erik Dante Quijano Santoyo, three brothers, were shot dead on 14 January 1990 in Ojo de Agua, México, at close range by members of the Policía Judicial Federal (PJF) (Federal Judiciary Police) after Héctor had been detained and allegedly tortured the previous day. Police surrounded their house searching for a fourth brother, a former policeman, accused of killing a policeman;

(ii) Agustín Félix Contreras, aged 35, died on 6 May 1990 after having been detained by the police in Aguililla, Michoacán, on 5 May 1990 from wounds allegedly sustained during a police confrontation.

316. On 6 August 1990, a reply was received from the Government of Mexico to the Special Rapporteur's cable of 27 June 1989 (see E/CN.4/1990/22, para. 287) in regard to the alleged death threats directed at members of the Union of Indigenous Communities of the Mixed Zone of the Isthmus (UCIZONIO) stating that the competent authorities of the State of Oaxaca had conducted an investigation into the death of Crisóforo José Pedro and concluded that the homicide did not constitute a summary or arbitrary execution but a common crime. Two men, Eucario Pimentel Zacarías and Abad Juan Rodríguez Valdeespino have been arrested and charged with the crime.

317. On 16 August 1990, another reply was received from the Government of Mexico to the Special Rapporteur's cable of 25 July 1990 concerning the alleged killing of Cristóforo José Pedro and the death threats received by Victor Clarke Alfaro and Jorge Castañeda through his secretary Mariana Rodríguez, stating that upon having received the request for intervention, the Government of Mexico immediately condemned the death threats against Messrs. Alfaro and Castañeda and the courts ordered the necessary protection. It furthermore stated that Ms. Rodríguez identified a photograph of a former agent of the Criminal Investigation Police of the Federal District as one of her assailants, but was unable to identify him in a subsequent lineup. He was released.

318. On 16 August 1990, another reply was received from the Government of Mexico to the Special Rapporteur's letter of 11 July 1990 regarding the following cases:

(a) Norma Corona Sapiens: Information was transmitted from the Attorney General of the State of Sinaloa to the effect that an ex-agent of the Criminal Investigation Department of the State of Sinaloa and three alleged accomplices had been detained and charged with murder, and that the former had confessed to the crime. The case is under the jurisdiction of the Fourth Criminal Court of First Instance;

(b) Andrés Martínez Díaz: The case remains under investigation by an officer of the assistant military prosecutor's office attached to the twenty-eighth military zone of Oaxaca State. A civil case proceeds under the public prosecutor's office in Puerto Escondido, Juquila in Oaxaca;

(c) Jesús Martínez Ruiz: At the request of the sister of Jesús Martínez Ruiz, who died on 4 September 1989 when he was detained by the Criminal Investigation Police of the state of Tabasco, the Office of the Attorney-General of Tabasco instituted a further preliminary inquiry. The National Commission for Human Rights requested the Government of the State of Tabasco to provide an in-depth report on the case.

319. On 30 August 1990, a further reply was received from the Government of Mexico, following the above-mentioned reply of 16 August 1990, regarding the case of Jesús Martínez Ruiz. The letter stated that on 17 August 1990, the findings of the preliminary inquiry were transmitted by the Office of the Attorney-General to the competent criminal court judge bringing charges of abuse of authority against five agents of the Judicial Police of Tabasco for the torture and murder of Mr. Martínez.

320. On 3 October 1990, a reply was received from the Government of Mexico regarding the case of Jesús Martínez Ruiz, transmitting the report and recommendations of the National Commission for Human Rights. The report stated that on 20 August 1990, the Fifth Criminal Court of First Instance ordered the release of the five agents accused of his death on the grounds of insufficient evidence. The Office of the Attorney-General of Tabasco appealed to the Superior Court and the investigation was renewed by the Office of the Government Prosecutor for the Federal District.

321. The recommendations were as follows:

(a) That an appropriate investigation and further legal action should be taken to remove the Director General of the Judicial Police of Tabasco from his post for his deliberate misrepresentation of facts in the case as found by the Commission's investigation;

(b) That the Prosecutor General for the State desist from appeal against the decision of the Fifth Criminal Court of First Instance of Tabasco;

(c) That on the basis of the new elements provided herewith, a new investigation should be undertaken and the criminal action be reinstituted against the five officers charged;

(d) That bulletins should be provided to all the corresponding State and Federal police entities so that those implicated in the case were not rehired;

(e) That the physical integrity of the Martínez Ruiz and Márquez Valenzuela families should be assured (Márquez Valenzuela remains in custody);

(f) That documents attesting to the fulfilment of these recommendations should be sent to the National Commission for Human Rights.

322. On 18 December 1990 a letter was received from the Government of Mexico transmitting recommendation No. 22 of the National Commission for Human Rights containing the results of the Commission's investigation into the case of Artemio Marcos Hernández, concerning which the Government had replied on 25 August 1989 (see E/CN.4/1990/22, para. 294).

323. According to the investigation of the National Commission for Human Rights, Mr. Hernández was killed as a result of his activities as a peasant leader of the regional peasant groups URECHH and UNORCA in San Pedro Huazalingo. Among his activities was the task of obtaining the transfer of land to the peasants of San Pedro Huazalingo as determined by decisions taken by the Secretary of Agrarian Reform.

324. According to the report, on 13 March, Mr. Hernández was part of a commission of peasants formed to retrieve from the landowner's residence the measuring instrument which was allegedly taken by a gunman working for an important landowner (cacique) of the region. It was stated that the landowner then threatened Mr. Hernández, saying that he would pay with his life for being the leader of the movement, and that on 9 May 1989 Mr. Hernández had expressed to friends that something was going to happen because the landowner's gunman was looking for him.

325. The report also stated that on 18 May 1989, an individual arrived at Mr. Hernández's home, requesting that he attend a meeting the following day at a specified time and place, the time and place at which his death actually occurred.

326. The report of the investigation further stated that on 1 June 1989 the case was assigned to officials attached to the deputy sub-prosecutor's office and that the case remains in their charge.

327. It was stated that testimonies of witnesses to some of the above-mentioned incidents was taken by the prosecutor's office. The Commission interviewed the Prosecutor General, the deputy prosecutor and the Director of the State Police and determined that, aside from gathering the testimonies and performing a ballistics test, as of 27 June 1989 no other action had been taken in regard to this case, despite the judgement of the Commission that by utilizing available investigatory measures the death of Mr. Hernández and the question of those responsible could be clarified.

328. On 18 December 1990, another letter was received from the Government of Mexico further to its reply of 20 October 1989 (E/CN.4/1990/22, para. 296) to the Special Rapporteur's cable of 10 August 1989 regarding the killing of Pedro Hernández Reyes, transmitting information that the case has progressed to the phase of instruction under the judge (juez mixto) of the Court of First Instance in Huayacocotta, Veracruz, where formal charges had been filed against the individuals alleged to have been responsible.

329. The letter stated that Mr. Hernández Reyes had been killed by individuals who considered him a traitor to the Campesinos Unidos de Sierra Oriental (United Peasants of the Sierra Oriental).

Morocco

330. On 9 November 1990, the Special Rapporteur sent a letter to the Government of Morocco, transmitting allegations to the effect that 24 prisoners among the officers and non-commissioned officers confined in the Tazmamart military prison, in the region of Rich, since August 1973, after being sentenced to terms of imprisonment following charges of attempts on the life of the King in 1971 and 1972, had died as a result of ill-treatment or of the particularly harsh conditions of detention due to inadequate food, sanitary arrangements and medical care. The name and rank of the 24 victims are as follows: Allal Mouhaj, sergeant; Thami Abounsi, sergeant; Rachid El Amine, chief warrant officer; Mohamed Chajaii, sergeant; Driss Bahbah, corporal; Kacem Kasraoui, corporal; Abdellah Lafraoui, corporal; Abdeslam Rabhi, sergeant; Mohamed Bitti, sergeant; Benaissa Rachidi, sergeant; Mohamed El Abdi, warrant officer; Rabeh Bettioui, quartermaster sergeant; Bouchta Haddane, corporal; Mohamed Chemsi, lieutenant; Akka Harouch, chief warrant officer; Mahjoub El Yakdi, lieutenant; Mohamed El Ghali, lieutenant; Mohamed Karoui, lieutenant; Ben Rédouane Tijani, lieutenant; Boujemaa Azendour, lieutenant; Jilali Dick, warrant officer; Mohamed Aboulmakoul, warrant officer; Abdelaziz Ababou, quartermaster sergeant; Moha Boutou, lieutenant.

331. At the time of preparation of the present report, no reply had been received from the Government of Morocco.

Myanmar

332. On 6 November 1990, the Special Rapporteur sent a letter to the Government of Myanmar transmitting an allegation that on 8 August 1990, in Mandalay, two monks and two students were shot dead when security forces opened fire on a large number of monks and students who were marching in a peaceful demonstration.

333. On 26 January 1990, a letter was received from the Government of Myanmar, referring to its previous letter dated 13 December 1989 (see E/CN.4/1990/22, paras. 415 to 418) and stating that the State Law and Order Restoration Council had revoked martial law, with effect from 2 January 1990, in 10 townships where the situation had improved sufficiently.

334. On 21 March 1990, another letter was received, transmitting a list of 14 townships in which the State Law and Order Restoration Council had revoked martial law with effect from 11 March 1990.

335. On 7 May 1990, another letter was received, transmitting a list of 30 townships in which the State Law and Order Restoration Council had revoked martial law during the months of March and April 1990.

336. On 16 June 1990, another letter was received, transmitting a list of 102 townships in which the State Law and Order Restoration Council had revoked martial law during the second half of April and the month of May 1990.

Nepal

337. On 10 April 1990, the Special Rapporteur sent a cable to the Government of Nepal regarding the information received that in the situation of political unrest of the preceding several days, at least 50 persons were killed in Katmandu by security forces who had allegedly fired at unarmed demonstrators after failing to control them with batons and tear-gas. Similar incidents of deaths had been reported in Butwal and Pokhara where seven and two persons were killed respectively.

338. In view of the continuing tense situation of political unrest, the Special Rapporteur, concerned with any further incidents of deaths which might occur, appealed to the Government to take all necessary measures to prevent further deaths in the context of the continuing political situation, and, in this connection, requested information on the above-mentioned incidents and on the Government's effort to avoid further deaths.

339. On 26 July 1990, a letter was sent to the Government of Nepal transmitting allegations that since 18 February 1990, during mass demonstrations in several towns, at least 53 persons had been killed in indiscriminate shooting, beating and stabbing by the police. Several persons allegedly died as a result of torture, following their arrest by the police.

340. The following individual cases were described:

(a) On 30 March 1990, in Patan, Ratna Kaji Sai, aged 30, and Sagar Singh, aged 20, were killed when police shot at demonstrators;

(b) On 2 April 1990, in Kirtipur, Lan Bahadur Maharjan, Hira Kaji Maharjan and Bijaya Kumar were killed as police began shooting indiscriminately into the crowd and beating demonstrators;

(c) In April 1990, in Chabahil, Kumar Shrestha was beaten to death;

(d) In April 1990, in Baneswor, Lal Bahadur Bam was beaten to death.

341. At the time of preparation of the present report, no reply had been received from the Government of Nepal.

Niger

342. On 26 July 1990, a letter was sent to the Government of Niger transmitting allegations that members of the Tuareg ethnic group were killed by Government forces on account of their ethnic origin.

343. The following incidents were given as examples:

(a) In May 1990, near In Gal in the north-west part of the country, 40 persons were allegedly killed by Government forces;

(b) In May 1990, some 50 kilometres north-west of Tchin Tabaraden, 20 Tuaregs were killed by Government forces while they were building a house;

(c) In May 1990, in Tchin Tabaraden, three young persons were killed after they had been arrested.

344. In addition, it was alleged that in February 1990, several students were killed during demonstrations. Although the President, who was out of the country at the time of the killings, reportedly denied that the Government ordered force to be used against the students, no inquiry was reportedly known to have been carried out.

345. On 10 December 1990, another letter was sent to the Government of Niger, transmitting allegations that in May 1990, following an attack by Tuaregs on a police station in Tchin Tabaraden in which several policemen, a prisoner and two civilians, were killed. According to official sources, some 25 Tuaregs were killed in army attacks on Tuareg camps. Other sources quoted figures ranging between 200 and several hundred. In the nomad camp of Tilla, 50 kilometres from Tchin Tabaraden, a number of Tuaregs were said to have been killed as they tried to escape the army attack.

346. At the time of preparation of the present report, no reply had been received from the Government of Niger.

Nigeria

347. On 26 July 1990, a letter was sent to the Government of Nigeria transmitting allegations that during the preceding year several persons had been sentenced to death by robbery and firearms tribunals established under (special provisions) decree of 1970. There was allegedly no right to appeal to a higher tribunal although those condemned could petition the State Military Governor for clemency.

348. The following cases were described:

(a) In February 1990, in Minna, Niger State, Umaru Musa, aged 30, was sentenced to death by the robbery and firearms tribunal in Minna;

(b) On 28 February 1989, in Owerri, Imo State, Godwin Agu Eke, aged 36, was sentenced to death by the robbery and firearms tribunal in Owerri;

(c) In December 1989, in Kano, Kano State, Anda Mohammed, Ansa Mohammed, Hassan Agesha and Sani Sale, all from the Republic of Niger, and Musa Abdullani from the Republic of Mali, were sentenced to death.

349. It was further alleged that several detainees and prisoners died in custody as a result of poor prison conditions:

(a) In the beginning of 1990, in Ibadan, Oyo State, seven detainees reportedly died in Agodi Prison before their cases came to court. The names of the seven were given as Henry Chukwu, Agu Okori, Emmanuel Okangba, Bright Ehis, Akinniyi Ogunfowokan, Addo Frederick and Kajola Olunrebi;

(b) The controller of prisons in Lagos State reportedly stated that 273 prisoners had died in the State prisons in 1989 because of a shortage of drugs and vehicles to transport prisoners to hospital and because of overcrowded conditions.

350. On 27 July 1990, a cable was sent to the Government of Nigeria concerning 43 soldiers, including 10 army officers, whose names were transmitted, who had been sentenced to death on 18 July 1990 by a military tribunal for attempting to overthrow the Government. According to the information, the 43 persons had not been given the right to appeal to a higher tribunal. With regard to the 10 officers who had been sentenced to death, the special military court had allegedly not guaranteed the safeguards designed to ensure a fair and impartial trial throughout the legal proceedings: the court was presided over by a member of the Government, the trial was held in camera, the defendants were held in incommunicado detention following their arrest and had been tortured, they were not allowed to choose their own defence counsel, and they were not given the right to appeal to a higher tribunal.

351. In this connection, the Special Rapporteur, referring to article 14 of the International Covenant on Civil and Political Rights and to the safeguards guaranteeing protection of the rights of those facing the death penalty adopted by the Economic and Social Council in resolution 1984/50 of 25 May 1984, appealed to the Government of Nigeria to make every effort to ensure that the right to life of the above-mentioned persons be protected and requested information regarding the trial proceedings as a result of which the 43 persons had been sentenced to death.

352. On 10 December 1990, a letter was sent to the Government of Nigeria, transmitting allegations of death sentences by the robbery and firearms tribunals as follows:

(a) On 9 May 1990, Edet Jonah Ekanem was convicted of armed robbery and sentenced to death by firing squad by the robbery and firearms tribunal in Akwa Ibom State;

(b) On 12 July 1990, the robbery and firearms tribunal in Ikeja, Lagos State, sentenced four persons to death. Two of the four, Lateef Lawal and Anthony Bassey, were convicted of an armed robbery committed in August 1985. The other two, Ramoni Jolaosho and Muraina Akinbanmi, were convicted of an armed robbery committed in October 1985;

(c) On 26 July 1990, the military governor of Lagos State announced that he would not commute the death sentences imposed on 12 men in June 1988 by the robbery and firearms tribunal in Ikeja, Lagos State. One of the defendants, Augustine Eke, was reported to have been 14 when arrested in 1984.

353. Furthermore, on 27 July 1990, 42 persons, members or former members of the armed forces, were reportedly executed by firing squad after having been sentenced to death nine days earlier by a special military court on charges of involvement in an attempt to overthrow the Government in April 1990. Their petitions for clemency to the Armed Forces Ruling Council (AFRC) were reported to have been rejected. It was alleged that the trial before the special military court was held in camera, that a member of the AFRC presided over the court, that the defendants were held incommunicado after their arrest, that some were tortured or ill-treated, that the defendants were not allowed to choose their own defence counsel and that they had no right of appeal to a higher tribunal against their convictions or sentences.

354. On 13 September 1990, a further 27 persons were reportedly executed by firing squad after having been convicted for their involvement in the same coup attempt in April 1990 and sentenced to death by the special military court.

355. At the time of preparation of the present report, no reply had been received from the Government of Nigeria.

Papua New Guinea

356. On 26 July 1990, a letter was sent to the Government of Papua New Guinea transmitting allegations that since the Bougainville Revolutionary Army, a rebel group, began its actions in late 1988 on the island of Bougainville, and especially since the imposition of a state of emergency on 26 June 1989, several persons were killed by members of the police and military forces and some others died in detention as a result of torture.

357. The following case was given as an example of such cases:
On 24 November 1989, Vincent Onari, a maintenance worker at the Bougainville Copper Limited (BCL) mine, was detained together with another man by members of the Papua New Guinea Defence Force and severely beaten before being taken to army camp 10 at Panguna. According to eyewitnesses, Onari, semi-conscious as a result of the beating, was thrown out of a military vehicle onto the ground outside the army camp, kicked and beaten again and was shot in the head. His body was later delivered to the Arawa general hospital.

358. On 13 August 1990, a reply was received from the Government of Papua New Guinea to the Special Rapporteur's above-mentioned letter of 26 July 1990, stating that in regard to allegations of summary executions by security forces on Bougainville Island in late 1989, although the situation was not yet normalized, where proper and thorough investigation could be carried out the Government was conducting an investigation. It also stated that the Government was considering inviting an independent panel of Australian jurists to investigate allegations of human rights abuses in Bougainville.

Paraguay

359. On 11 July 1990, a letter was sent to the Government of Paraguay transmitting an allegation that on 12 December 1989 at the Staipú hydroelectric dam project on the Paraguayan/Brazilian border soldiers belonging to III cavalry division opened fire indiscriminately on workers on strike, causing the death of two workers named Germán Cardozo Gayoso and Hermenegildo Benítez.

360. On 7 December 1990 a letter was sent to the Government of Paraguay transmitting allegations of several killings having taken place during the year 1990 in the context of disputes over land ownership. The following cases were cited by the Special Rapporteur as examples:

(a) On 5 August 1990, Nicolás Caceres, aged 34, member of the Paraguayan Peasant Movement (Movimiento Campesino Paraguayo (MCP)), was shot dead by local authorities, a soldier and four armed civilians near his residence in Nueva Fortuna, Alto Paraná department, allegedly for his activities as a

peasant leader. These activities were said to have given rise to tensions between MCP members and a group of other peasants closely linked to the regional authorities (Delegación de Gobierno). Mr. Caceres' family presented a formal complaint to the court;

(b) On 10 May 1990, Francisco Baez Gómez, member of the National Peasant Organization (Organización Nacional Campesina (ONAC)), was killed after having been detained by police in Minga Guasú, department of Alto Paraná. His body, bearing signs of torture, was turned over to his familly on 13 May. His sister instituted a formal complaint against the security forces and police of Ciudad del Este, holding them responsible for Mr. Baez' death. ONAC expressed its concern to the local authorities (Cámara de Diputados), requesting them to take all necessary measures to bring those responsible to justice.

361. At the time of preparation of the present report, no reply had been received from the Government of Paraguay.

Peru

362. On 17 July 1990, a letter was sent to the Government of Peru transmitting allegations that during the first months of 1990, summary executions in Peru claimed a large number of victims especially in the zones under a state of emergency. According to information received, during the first three months of 1990 approximately 700 deaths were caused by political violence. This period was marked by attacks, acts of sabotage and assassinations perpetrated by armed opposition groups, particularly the Sendero Luminoso (Shining Path). More than half of the deaths caused by political violence in 1989 were attributed to Sendero Luminoso.

363. Nevertheless, numerous reports also pointed to the armed forces, the security forces and paramilitary groups such as the Comando Rodrigo Franco, as responsible for many of the deaths. In the emergency zones, the military maintained control over the population and, reports indicated, frequently carried out incursions against the Sendero Luminoso in which civilians were frequently killed. In regard to reports of peasant deaths in Cayara as well as the killing of several witnesses to the incident, to which the Special Rapporteur referred in his reports to the forty-fifth and forty-sixth sessions of the Commission for Human Rights (see E/CN.4/1989/25, paras. 203, 204, 208, 209 and 210 and E/CN.4/1990/22, paras. 306, 316 (e), 319 and 320), information was received in 1990 citing a lack of action by State organs charged with carrying out the investigation of these incidents. Particular preocupation was expressed at reports that courts had filed the complaints without exhausting the means available for identifying the individuals or groups responsible for these crimes.

364. The Special Rapporteur received information regarding the following individual cases:

(a) Estalisnao Polanco Rojas, Francisco Ramos Bautista, Virgilio Barrientos Ramos, Virginio Barrientos Polanco, Esteban Barrientos Vega, Andrés Nuamani Polanco, Maña Bautista Quispe, Franco Ramírez, Clemente Chaupion Barrientos and Ignacio Tito, all peasants, were killed on 27 June 1989 by the army for allegedly refusing to co-operate when an army patrol led by a major and three offficials entered Pampamarca, Aucara district, Lucanas province, Ayacucho department, and rounded up all the townspeople in the central plaza;

(b) Domingo Quispe, aged 95; Crisóstomo Condori Quispe, aged 58; Natividad Quispe, aged 90 and Alejandro Quispe Condori, aged 60 all peasants, were killed on 13 June 1989 in Santa Ana, Lucanas, Ayacucho, when an army patrol raided the town. On 26 June 1989, the soldiers returned, threatening and mistreating the townspeople. Casimira Quispe Condori, aged 14, was allegedly raped by the soldiers in the church and then wounded with a bayonet;

(c) Balvino Huamani Medina, aged 60; Marcos Torres Salhua, aged 30; Juan Huisa Pacco, aged 22; Zenón Huisa Pacco, aged 20; Marcos Zacarías Huisa, aged 33; Gregorio Alferes Triviño, aged 20; Julio Huamani Huisa, aged 80; José Huamani Charcahuana, aged 28; Julio Apfata Tañire, aged 28; Jesús Jauja Sullo, aged 22; Eustaquio Apfata Salhua, aged 28; Hermeregildo Jauja, aged 60; and another indigenous person without identification were killed between 23 and 28 April 1990 by members of the army in Apurimac, Chumbivilcas, Cuzco department, allegedly accused of belonging to Sendero Luminoso. Between 23 and 25 April 1990 a total of 22 persons in Apurimac, Chuchamake and Nanrapate were detained. On 26 April 1990, 11 of those detained in Capallullo were shot dead by six soldiers: the other two were killed in the following days. The bodies of all 13 were not exhumed until 6 May 1990, allegedly due to the lack of initiative of both the provincial and local judges. The autopsy showed that all of the bodies bore marks of torture. It was further reported that although the case was denounced to the attorney general, the investigation regarding the incident was at a standstill;

(d) On 7 April 1990, Lucio Bautista Tacusi, a student, was shot dead in Tijuana, Candris, by members of the National Police and the army when they allegedly were confronted by subversive elements;

(e) On 1 April 1990, Falconeri Saravia Castilla, president of the Agricultural Federation of Huancavelica and a member of the United Leftist Party and of the municipal council of Santa Bárbara, was found dead bearing bullet wounds and torture marks in a forest, 10 kilometres from Huancavelica. He had been detained on 16 March 1990 by a police agent and taken to the political military command of Huancavelica;

(f) José Burneo Labrín, executive director of the Centre of Studies and Action for Peace (CEAPAZ) and a member of other human rights organizations, reportedly received death threats on 15 February and 16 March 1990 by men dressed in military uniforms who entered his home. He also received telephone death threats during April and May 1990, both in his home and at CEAPAZ headquarters;

(g) Francisco Soberón Garrido, co-ordinator of the Pro-Human Rights Association (APRODEH), received telephone death threats on 1 March 1990 from members of the paramilitary group Comando Rodrigo Franco.

365. On 10 August 1990, a cable was sent to the Government of Peru transmitting the following cases:

(a) Máximo Rico Bazón, an official in the legal advisory office of the Ayacucho Development Corporation, was killed at his home in the city of Ayacucho in the early hours of 19 July 1990 by a group of hooded men who had shot him three times in the head;

(b) Fernando Luis Colonio Arteaga, a lawyer at San Cristobal de Humanga National University, had been killed in the early hours of 20 July 1990 at his home on the María Parado de Bellido estate in the same city by a group of men who had shot him in the head;

(c) Gabriel Tupia Huamancusi, aged 25, a mining engineering student at the same university, was killed in the early hours of 21 July 1990 by a group of hooded men who had broken into his home on the Mariscal Caceres de Ayacucho estate and shot him in the head.

366. According to the information received, these four murders had been committed at times when no one, except for the security patrols, was allowed on the streets, and it was presumed that those responsible for the murders were paramilitary groups or security forces personnel.

367. It was also reported that the informants were expressing particular concern for the lives and safety of lawyers and members of San Cristobal de Humanga National University, several of whom had been victims of summary executions in July 1990.

368. In connection with these events, the Special Rapporteur, emphasizing that the State bears fundamental responsibility for protecting the lives of persons on its territory, appealed to the Government to take measures to protect the life and the security of lawyers and members of San Cristobal de Humanga National University, and requested information on the measures taken and on the investigations carried out by the competent authorities in this regard.

369. On 15 August 1990, a cable was sent to the Government of Peru concerning Ciro Aramburu Villanueva, professor of biology and head of the student affairs and welfare office of Huamanga University, who was alleged to have been murdered on Tuesday, 24 July 1990 at 4.00 a.m. by armed men who had broken into his house and also wounded his daughter Alicia Aramburu.

370. Serious concern was particularly expressed regarding this crime, not only because of the identity of the victim but also because it was considered to be the latest of many acts of aggression directed at Huamanga University over the last decade, including assaults on the lives and security of teachers, employees and students of the university, as well as attacks on its buildings.

371. In this connection, the Special Rapporteur appealed to the Government to take measures to protect the life and security of the people at the University of Huamanga and requested information on the investigations carried out by the competent authorities regarding the attack on Ciro Aramburu Villanueva and his daughter.

372. On 9 October 1990, another cable was sent to the Government of Peru concerning incidents in the department of Puno. According to the information received, terrorist acts had been committed in that department by the Sendero Luminoso, such as the murder of National Police colonel Alcantera Mori. A specialized police team, acting in co-ordination with the armed forces, carried out various operations in the districts of Orurielo and Nuñoa, Melgar Province. It was stated that, as a result of their activities, a number of peasants not belonging to the subversive movement disappeared, others (including two elderly persons) died in dubious circumstances in the community

of Huancayo and many more, including children at a primary school in the district of Orurillo, Melgar Province, were subjected to ill-treatment and torture.

373. It was further alleged that the lives and physical integrity of innocent peasants in the department of Puno were in danger because the forces responsible for the pursuit of the members of the aforementioned armed group were committing serious violations of human rights.

374. In this connection, the Special Rapporteur appealed to the Government to take measures to protect the life and the security of the peasants of the department of Puno and requested information in this regard.

375. On 6 November 1990, a letter was sent to the Government of Peru transmitting allegations that various new paramilitary groups such as Counterinsurgency Liberation Movement (Movimiento de Liberación Contrainsurgencia), with its base in Ayacucho, had recently surfaced and that while the Sendero Luminoso and the Tupac Amaru Revolutionary Movement (MRTA) were responsible for a substantial number of deaths reported in 1990, the armed forces and paramilitary groups were also responsible for violations of the right to life of a large number of political candidates, trade unionists, peasant leaders, and civilians suspected of maintaining contact with terrorist groups.

376. Between April and the last week of August 1990, 1,977 deaths due to political violence in Peru were reported; 301 were registered for the month of April alone, with the weeks prior to the presidential and parliamentary elections (8-24 April) reported as the most violent of the decade. It was alleged that members of the armed forces and the ex-military belonging to the paramilitary groups benefited from almost total impunity for their participation in these killings. The Special Rapporteur referred to the following cases by way of example:

(a) On 18 June 1990, Jaime Cerrón Palomino, vice-rector of Huancayo University, and his driver Armando Tapia Gutiérrez were found dead, bearing signs of torture after having been kidnapped on 8 June 1990 at 8.00 a.m. on their way to the university by three armed and hooded individuals driving a blue unmarked van. Security forces maintain strict control of all vehicular traffic in the area, under a state of emergency, where the abduction occurred;

(b) In the first week of October 1990, a common grave was discovered in an abandoned mine in Cajamaravilla, Caratambo province, department of Lima, bearing the bodies of Milton Adelino Loli Mauricio, Eteolino Cornelio Abad, Elfer Abad Casimero, Roberto Milton Loli Marfano, José Beltrán Chazeo Loli, Ambrosio Cama. All had their hands bound and had been shot in the head Mr. Loli, director of the Víctor Andrés Belaunde national school, had been kidnapped on 14 May 1990 in Abelardo Pardo Lezuma, Bolognesi province, Ancash department, by 15 members of the police. The others had been kidnapped on 9 May 1990 in Acos municipality, Cachuapampa, Ancash department, by the DOES.

377. Between 7 and 21 October 1990, two common graves bearing the bodies of 54 peasants were discovered in Cahci and Chilcahuayco, Ayacucho department. All the bodies were found shot with military rifles, reportedly by the DOES forces based in Huanta. The discovery of the bodies was reported by family members to the district attorney of Ayacucho.

378. On 29 November 1990, a cable was sent to the Government of Peru concerning death threats made against Dr. Jávier Diez Canseco, senator of the Unified Mariatequista Party (Partido Unificado Mariatequista) and member of the United Leftist Party (Partico Izquierda Unida), and his family allegedly for his Party affiliations, his activities as a member of the Parliamentary Commission set up to investigate the massacres in Chumbivilcas in April 1990 and San Pedro de Cachi on 18 October 1990, and his membership in the commission to reinstitute the investigation into the alleged Government responsibility in the deaths of some 250 prisoners in three Lima prisons.

379. On 16 November 1990, at approximately 2.00 a.m., an explosive was thrown at his house causing material damage. Civilian groups linked to the security forces were reportedly responsible for the threats.

380. The Special Rapporteur appealed to the Government to take all necessary measures to protect Dr. Jávier Diez Canseco and his family and requested information on the measures taken in this regard.

381. On 4 December 1990, another cable was sent to the Government of Peru referring to the Special Rapporteur's cable of 9 October 1990 and providing, as requested, further information concerning allegations of death threats and killings in Orurillo, department of Puno.

382. The information received indicated that between 16 and 21 September 1990, Sendero Luminoso had carried out an offensive in the department of Puno killing a colonel of the National Police and three members of DOES, as well as forcing members of the Agrarian Co-operative of Workers (CAT) to transport them to the co-operative.

383. It further indicated that, as a consequence, on 27 September 1990, agents of DOES detained Hugo Cornejo and Roger López Quispe and forced them to act as shields during an ensuing confrontation with the Sendero Luminoso in which both men were killed. During the confrontation, three other armed civilians, Alberto Mayhua, aged 24, Julian Pucamajia, aged 80, and Alejandra Yana, aged 90, were also killed by DOES agents. The following day these peasants' homes were ransacked and burned. Continuing death threats against co-operative members and inhabitants of Orurillo were said to have made these people fear for their lives and safety.

384. The Special Rapporteur appealed to the Government to investigate the case and to take measures to protect the lives of the persons threatened with death and requested information on the outcome of the investigation as well as on the measures of protection taken by the Government.

385. On 12 January 1990, a communication was received from the Government of Peru providing information concerning the death of Enrique López Albújar. It was stated that on 9 January 1990, at 9.30 a.m., General López Albújar, fell victim to a terrorist commando who shot him 15 times, causing his death. General López Albújar, 58 years old, was Commander General of the Army, President of the Joint Command of the armed forces, and the first to assume the head of the Ministry of Defence of Peru, which had recently been created under the present constitutional system of Peru.

386. On 16 January 1990, another communication was received from the Government of Peru transmitting information on the case of Isaías Aylas Gonzales. It was stated that on 13 January 1990, Mr. Aylas Gonzales was abducted by terrorist elements, subjected to torture and shot dead in the San Luis de Yaico zone, 15 kilometres north of Huancayo. Mr. Aylas Gonzales was 37 years old and worked as an engineer in Electrocentro.

387. On 19 January 1990, another communication was received from the Government of Peru transmitting a list of 38 names of peasant victims of the Orurillo massacre.

388. On 18 September 1990, a letter was received from the Government of Peru transmitting cases compiled by the Government regarding violent acts committed by subversive groups during the months from January to June 1990.

389. On 26 October 1990, a reply was received from the Government of Peru to the Special Rapporteur's cable of 9 October 1990 requesting that additional information be provided regarding the incidents of alleged reprisal killings by military forces in the department of Puno.

390. On 22 November 1990, a reply was received to the Special Rapporteur's letter of 17 July 1990 transmitting a communication from the Minister of Defence in regard to military investigations into the killings in Apurimac and Ayacucho. The communication stated that according to the Joint Command of the Armed Forces, no military actions were carried out in Apurimac on the dates cited; the armed forces were therefore in no way responsible for the alleged incidents and the investigation of the incident in Ayacucho had therefore not been concluded.

Philippines

391. On 15 June 1990, a cable was sent to the Government of the Philippines concerning Solema P. Jubilan, a lawyer in Kadapawan, North Cotabato province, who had allegedly been threatened with death by members of the security forces since 12 May 1990, when an article had appeared in the "Mindanao Cross" in which an unnamed military source had alleged that the Children of War Centre run by Solema P. Jubilan for orphaned children of war was a front for the fund-raising activities of the Communist Party of the Philippines (CPP). It has also been alleged that Jubilan had received numerous threats since 1986.

392. The Special Rapporteur, emphasizing the fact that the State had the primary responsibility of ensuring that the right to life of those under its jurisdiction was protected in every possible manner, appealed to the Government of the Philippines to take all necessary measures to protect the safety of Solema P. Jubilan and requested any information on the measures taken by the Government to protect this person as well as on the investigation carried out by the authorities on the case.

393. On 26 July 1990, a letter was sent to the Government of the Philippines transmitting allegations that during the preceding year, in the situation of internal armed conflict, several persons had been killed in a summary manner by members of the security forces and paramilitary groups under military

command. The victims were said to be suspected of sympathy for the New People's Army (NPA) or to be members of trade unions, church organizations or community groups. Individual cases were reported as follows:

(a) On 18 May 1990, Dulnuan Pio, aged 69, and his wife Tomasa Pio, aged 50, were killed and their 6-year-old daughter was shot in the chest by a combined group of 20 troopers of the 133rd Philippine Constabulary (PC) company and the Citizen's Armed Forces Geographical Units (CAFGU), who shot at their house in Don Fausto, Padaduan, Diffun, Quirino;

(b) On 4 June 1990, Jury Rabaca, aged 19; Orgil Escurro, aged 21; and Teopanis Natividad, aged 28 were shot on their way home from Dumingag población by armed men allegedly members of the defunct Integrated Civilian Home Defence Force (ICHDF); Jury Rabaca was killed;

(c) On 26 August 1989, Minda Magdadar was shot dead in Pagadian City, Zamboanga del Sur by a member of the first "Tabak" division of the Armed Forces of the Philippines (AFP). She was reportedly mistaken for her niece, María Marne de los Santos Magdadaro, who was abducted on 23 September 1986 and released on 3 February 1987 after allegedly being raped and ill-treated;

(d) On 14 October 1989, in Cebu City, Damian Aninon, his wife Sheila Aninon, who worked for the Visayas office of the Socio-Pastoral Institute (SPI), and Dondil Dungog, aged 6, were killed, their house having been strafed by unidentified men. The family had received death threats after having refused to join the anti-communist vigilantes in 1988 and the CAFGU in September 1989;

(e) On 29 January 1990, Nesto Loberio, aged 25, and Diomedes Abawag, aged 26, both staff members of Samar Assistance for Farmers Development Inc. (SAFDI), were abducted in Samar by men in civilian clothes, said to be members of the military intelligence group of region 8 (MIG8) of camp Lukban, Catbalogan, Samar. On 1 February 1990, Diomedes Abawag's head was found in the sea. On 4 February 1990, two headless bodies - allegedly of the victims - were found, one in Catbalogan, the other in Samar;

(f) On 30 January 1990, Benjamin Mercado, a 42-year-old tricycle driver, was shot dead by two unidentified men in civilian clothes whom he was driving to Balanga. Prior to the incident, the victim was questioned at the military camp by military personnel of the 161st company, where he was threatened;

(g) On 5 February 1990, Ruben Medina was abducted by members of the Philippines Constabulary-Integrated National Police (PC-INP) and CAFGU members from the bus No. 85 which had stopped at a military checkpoint in Bataan. His body, bearing gunshot wounds and signs of torture, was identified by employees of the funeral parlour in the barangay the same day;

(h) On 7 March 1990, Oscar Tagulao, aged 28, was shot dead by three unidentified armed men in Bataan. The victim was allegedly taken by the perpetrators for his brother, Rufo Tagulao, an active labour leader long under surveillance by the military. His other brother, Orlan Tagulao, had also been under surveillance by military officers and had been interrogated by members of the 24th infantry battallion, Philippine army (IBPA), in the barangay one month earlier;

(i) On 16 April 1990, Artemio Viray, aged 42, chairman of a civilian organization of the residents of Ipag (MASIPAG) and suspected of being a member of the NPA, was found dead in Mariveles bearing gunshot wounds in the head. The victim had gone on 28 March 1990 to the 24th infantry battalion (IB) where he was taken into custody for interrogation. His relatives were never allowed to see him;

(j) On 17 April 1990, Romeo Danan, the President of the Organization of Agricultural Workers (AMA) and the Confederation for Freedom and Democracy (CONFREEDEM), was killed in Paanpaga by a member of the CAFGU;

(k) On 29 April 1990, David Borja, aged 41, leader of the Southern Philippines Federation of Labour (SPLF) and regular member of the Kilusang Mayo Uno (KMU) National Council, was killed by men in civilian clothes in Lanac del Norte. The military had reportedly raided the victim's house on several occasions but had failed to find him;

(l) On 15 January 1990, in Zamboanga del Sur, Cornelio Limbaga, aged 57, a member of the Basic Christian Community and a member of a farmers' organization, Kilbsan Magbubukik Pilipinas (KMP), was killed by two local vigilante groups, Panaginsa sa Democrasya (PD) and Preservation Democratic Institution of Philippines (PDIP). These groups, based in Buburay, Dimataling, were commonly referred to as the TADTAD;

(m) On 30 January 1990, in Sugbay Dos, Pitogo, Zamboanga del Sur, Josefina Arnaez Abogada, aged 44, was killed by members of CAFGU;

(n) In March 1989, in barangay Buena Vista, Santa Catalina, Negros Occidental, Nicosia Opian, two farmers and two young children were killed by a joint counter-insurgency force of the CAFGUs and the PC;

(o) On 16 April 1989, in Pitogo, Zamboanga del Sur, Pastor Ruelo of the United Church of Christ of the Philippines was shot by a local CAFGU commander and died three days later. The commander was subsequently charged with homicide and detained at the 4th infantry battalion where he reportedly died in custody;

(p) On 21 January 1990, in Sigacad Bayug, Zamboanga del Sur, Chrispulo Gloriano, a farmer, aged 55, was killed by the detachment commander of Sigacad and a CAFGU member;

(q) On 3 April 1990, in Kayan, Tadian, Mountain province, Norman Akien, aged 18, and Antonio Akien Junior, aged 28, were killed by members of the 194th company of the Philippines Constabulary (PC).

394. It was further alleged that on 12 September and on 15 October 1989 chemical bombs were used by the AFP in the neighbourhood of non-military targets in barangay Bacong, Tuluman, North Cotobato and near Upper Magangit, Maco, Dacao del Norte. Consequently, several small children reportedly suffered from diarrhoea, fever, acid suffocation and vomiting. Seven of them died the following days including Daisy Aplang, aged 7 months, Randy Malit, aged 7 months, Danny Boy Malit, aged 1 year and 8 months, and Nardo Tamba, aged 2 years. A number of old people reportedly also died as a result of the bombing.

395. Furthermore, two alleged cases of death in custody were described:

(a) On 20 October 1989, in Quezon City, Jacinto Manois, a 33-year-old trade unionist, died as a result of torture in police custody;

(b) On the night between 25 and 26 October 1989, in Bontoc, Mountain province, Jerry Ayban was shot dead while asleep in his cell in the custody of the Philippine Constabulary-Integrated National Police (PC-INP). Immediately after the shooting, one of the guards on duty disappeared.

396. On 18 September 1990, a cable was sent to the Government of the Philippines concerning several religious workers in Negros Occidental, and in particular Sister Aquila Sy, Father Gerson Balitor, Father Eamon Gil and Father Des Quinn who had been subjected to harassment and death threats. According to the information, hundreds of leaflets signed in the name of the AKTK (Alliance Against Exploiters of the People), reportedly a paramilitary group linked to the local military command, had been distributed to houses in the area of Payao, Negros Occidental, on 8 August 1990, inciting acts of violence against the aforementioned and other religious workers. The harassment of Sister Aquila Sy, the current regional co-ordinator of the rural missionaries in the Philippines and vice-chairperson of the promotion of church peoples' rights, District V southern Negros Occidental, was said to be connected with her efforts in July 1990 to locate three members of the Federation of Internal Refugees in Negros, accused by the military authorities of being couriers for the New People's Army, who had disappeared shortly after their arrest, on 6 July 1990, by CAFGU members and military personnel.

397. In this connection, the Special Rapporteur, emphasizing that the State had the primary responsibility of ensuring that the right to life of those under its jurisdiction was protected in every possible manner, appealed to the Government of the Philippines to take all necessary measures to protect the safety of the above-mentioned persons and requested information on the measures taken by the Government to protect the persons concerned as well as on the investigation carried out by the authorities on the case.

398. On 28 November 1990, a letter was sent to the Government of the Philippines, transmitting allegations that in the context of the internal armed conflict, unarmed civilians were killed in a summary manner by members of security forces or paramilitary groups or, in some instances, by unidentified men presumed to be acting with official connivance. Among the victims were members of church organizations, and more recently, members of workers' unions, community activists and peasant groups presumably suspected of supporting armed opposition groups. Alleged cases were described as follows:

(a) Father Dionisio Malalay, aged 32, was shot dead on 6 April 1989 by a member of the Philippines Constabulary (PC) in Tabina, south of Pagadian City, Zamboanga del Sur. He had previously been warned by the military about his attempts to secure indemnification for victims of human rights violations. Rufino Rivera, town councillor of Tabina was also killed in the same incident by the cousin of the PC member who shot and killed Father Dionisio Malalay;

(b) Manuel Villaseñor, head of the Urban Poor Association Katipunan Ng Samahang Makabayan (KASAMA), disappeared on 28 May 1989, in Quezon City as he left a church with two companions. On 29 May 1990, his bullet-riddled body was found behind a church in Intramuros, Manila. The bodies of his two companions were found in separate locations in Manila. He was said to have received an anonymous letter in May 1989 accusing him of harbouring a known urban guerrilla;

(c) Tomas Baiboa, aged 44, a teacher, was shot dead on 4 January 1990 by an investigator of the 321st PC detachment with a .45 calibre pistol. He was reportedly detained earlier that day and taken to the 321st PC headquarters by PC-INP and CAFGU members. The individual detained with Baiboa reportedly heard gunshots from his cell at approximately 2.00 p.m. that day;

(d) Felipe "Wilson" Leonidas, aged 27, member of the Congress of the United Urban Poor (KPML), died on 1 March 1990, while in custody of the military group (MIG) in camp Bago Bantay in Pag-Asa, Quezon City. He had been abducted at gunpoint from a Manila restaurant on 22 February 1990 by unidentified individuals in civilian clothing after attending a peace rally to commemorate the EDSA revolution anniversary. On 1 March 1990 his sisters were informed by the commander of camp Bago Bantay that he had committed suicide. However, the outcome of any official investigation into the suicide was not known to have been made public;

(e) Hernando Pelaro and Pablito Labrador, both farmworkers belonging to the NFSW-FGT, hacienda Alibasao local chapter of the Farmworkers' Union, were shot dead at close range by CAFGU members who invaded a farmworker's home where the two were among 15 guests. The incident took place on 26 January 1990, in Alibasao, Bargy. Murcia, Negros Occidental;

(f) Wilfredo Cumawas, member of the hacienda Quiroben local chapter of the NFSW-FGT Farmworkers' Union, was shot dead on 28 February 1990 at approximately 1.30 p.m. as he tried to flee alleged members of the military and CAFGU who raided hacienda Quiroben, Murcia, Negros Occidental, in search of opposition sympathizers;

(g) Emelyn Lipon, aged 9, elementary student, was killed and four other members of her family wounded when members of CAFGU strafed their house on 28 June 1990, in Purok 5, barangay Lumbo, Valencia, Bukidnon. According to CAFGU, two farmer friends at the Lipon's home were members of the New Peoples' Army (NPA). On 13 July 1990, an arrest warrant was issued by the Valencia municipal trial court judge for the three identified perpetrators who were reportedly still at large;

(h) Sonny Bergorio, a part-time organizer of the NFSW-FGT Farmworkers' Union, was arrested on 29 June 1990 by soldiers of the 606th brigade of the Bacong detachment of barangay Ma-ao Bago City when they raided hacienda Manghumay, barangay Mailum, Negros Occidental. He was shot dead at the Kulisap detachment, allegedly attempting to escape;

(i) During the period between January and May 1990, at least 14 persons were reportedly killed in a series of military operations carried out by the 32nd infantry battalion in the barangay of Saad and Dilud, town of Dumingag, Zamboanga del Sur. The following unarmed civilians were named as among the victims: on 16, 23 and 25 January 1990: Kadong Gumawak, aged 47;

Guntay Andera, aged 14; Urning Gumangay, aged 27; on 18 and 20 March 1990: Eson Otes, aged 19; Do Condes, aged 18; Ganile Tamudong, aged 53; Do Andaloy, aged 16; from 2 to 9 April 1990: Endo Andera, aged 56; Inday Andera, aged 53; Tonio Aden, aged 58; Maiben Aden, aged 27; on 24 April 1990: Anecito Gumerod, aged 35; Eliseon Condes, aged 35.

399. In regard to the case of Alfonso Surigao Jr., a human rights lawyer shot dead in Cebu City in June 1988, as noted by the Special Rapporteur in his report to the forty-fifth session of the Commission on Human Rights (see document E/CN.4/1989/25, para. 226(c)), it was reported that although the Philippines Department of Justice had filed criminal charges in December 1989 against a military intelligence officer alleged to have been the person who ordered the Surigao assassination, that officer had not been arrested and currently holds the post of commanding officer of a regional security unit. The Justice Department had also ordered the Cebu prosecutor's office to file murder charges against the officer in October 1989, but reports indicated this was never done. The hired killer, however, was convicted of murder in March 1989 and sentenced to life imprisonment.

400. On 29 January 1990, a reply was received from the Government of the Philippines to the Special Rapporteur's letter of 24 July 1989 (see E/CN.4/1990/22, paras. 336 to 338), transmitting reports from the Philippines Commission on Human Rights on some of the cases as follows.

401. Visminda Gran, a pastor of the United Church of Christ, together with her husband Lovino, was killed on 1 May 1989 at their residence in barangay del Pilar, Baliangao, Misamis Occidental, by unidentified armed men. Initial investigation has revealed that at about 8.00 p.m. on 1 May 1989, while inside their residence, the Gran couple were shot by five masked men clad in fatigue uniforms using long and short firearms of various calibre. They were hit in various parts of their body and died instantly. After shooting the Grans, the men robbed the house of various items and cash of an undetermined amount. Thereafter, the killers escaped towards Sitio Baga, barangay Lumipac, Baliangao. While none of the killers was apprehended, the fact that they were wearing combat fatigues has given rise to suspicions that the military/CAFGU might have been involved. It was pointed out, however, that anyone can easily get fatigue uniforms which are also used by other armed and rebel groups.

402. Further investigation was being undertaken by different agencies of the Government, including the Armed Forces of the Philippines (AFP).

403. Nine persons, Valeriano Bongcayao, Valeriano Bongcayao, Jr., Marcelino Bongcayao, Arnold Gavino, Ronaldo de la Cruz, Gabriel Pragas, Ronaldo Juvilla, Jesus de la Cruz, and Herminia de la Cruz, were said to be the victims of a massacre committed on 28 April 1989, in barangay San José, Paombong, Bulacan, by members of the 42nd marine company and a group of armed men believed to be members of NPA.

404. According to the report of the investigation undertaken by the Department of Justice, the victims were killed as an inevitable consequence of the encounter between the elements of 42nd marine company and an armed group believed to be NPA rebels.

405. A hearing on the case was under way in the Commission on Human Rights.

406. Father Dionisio Malalay, assistant parish priest of Dimataling-Tabina, Zamboanga del Sur, and Rufino Rivera, a local church leader and town councillor of Tabina, were shot to death on 6 April 1989 in the house of Rufino Rivera at Purok IV, Hilltop población, Tabina, Zamboanga del Sur. Their assailants were identified as a member of the Philippines Constabulary (PC) and his cousin, Nelson Colipano.

407. A complaint has been filed before the municipal circuit trial court of Dimataling, Tabina and Pitogo against the suspects, and arrest warrants were issued against them on 7 April 1989.

408. Preliminary reports show that between 5.00 and 6.30 p.m. on 21 March 1989, at the población of Catarman, northern Samar, attorney Oscar Tonog, together with his wife, were hurrying home due to the rain when an unidentified man suddenly blocked their path, pulled out a handgun and shot attorney Tonog three times at point-blank range. He was immediatedly rushed to Samar General Hospital where he died on the following day. The investigation of the case was still continuing.

409. On 2 March 1989, Romulo de la Cruz a suspected NPA member, was shot dead by a man identified as a CAFGU member, as he slept in a house of a relative in barangay Guindapunan, Daram, Samar. The case was still under investigation.

410. Pedro Pagao, Encarnación Pagao, Eduardo Pagao and Rosie Pagao were killed by elements of the 62nd infantry batallion under the command of a colonel. According to the report, on 18 February 1989 the mother of one of the victims heard several shots coming from the direction of Sitio Bangon, Carayman, Calbayog, Samar, about half a kilometre away. The following day, she was informed by her daughter's neighbour that her daughter's entire family had been massacred.

411. The case was still under investigation and an exhumation of the bodies of the victims was conducted on 25 August 1989 by a team of forensic experts.

412. Meliton Roxas, chairman of the Union of Filipro Employees (UFE) chapter in Cabuyao, an affiliate of the KMU, was shot dead on 20 January 1989 by an unidentified gunman while he was having his lunch with his wife outside the Nestlé plant in Cabuyao, Laguna.

413. The Commission on Human Rights was in the process of evaluating the report from the Philippines Constabulary of Cabuyao.

414. An investigation by the Commission revealed that on 20 November 1988, at about 10.00 p.m., the residents of barangay Muritela, Agusan del Sur, were awakened by explosions caused by a bomb that hit the barangay, particularly the Cogollodo house, resulting in the death of all six members of the family. According to the witnesses, the bombs had come from San Luis, Agusan del Sur, where detachments of the 2nd infantry battalion were located.

415. The Commission was still gathering more evidence so that a case could be filed against the commanding officer of the batallion if warranted.

416. Pedro Galo was said to have been killed on 10 September 1988 by members of Alsa Masa in barangay Inabod, Matuguinao, Samar. The case was referred to the district attorney's office in Samar.

417. On 30 August 1990, a reply was received from the Philippine Commission on Human Rights (CHR) concerning the case of Attorney Solema P. Jubilan referred to in the Special Rapporteur's cable of 15 June 1990.

418. The letter stated that this was not the first time that Ms. Jubilan had reported alleged threats on her life; in 1988 and 1989 she allegedly received similar death threats, but there was no actual attempt on her life.

419. The letter further stated that the Commission would take, within means available to it, such measures as would contribute to the safety and well-being of Ms. Jubilan.

420. The report on the case from the regional field officer based in Contabato City was attached to the Commission's letter. It referred to the press conference arranged by Ms. Jubilan at which the alleged death threats were described, noted the difficulties in investigating cases of death threats and expressed doubt that any surveillance for her safety was practicable due to the lack of technical and other means.

421. On 19 October 1990, a reply was received from the Government of the Philippines, transmitting information from the Philippine Commission on Human Rights (CHR) on a number of cases communicated to the Government on 26 July 1990 as follows:

(a) Dulnuam and Tomasa Pio: In view of conflicting accounts of the incident, the Commission on Human Rights regional office in Tugucgarao was still gathering evidence;

(b) Joery Rabaca, Orgil Escurro and Teopanis Natividad: Criminal charges for murder and attempted murder were filed against three individuals in the regional trial court branch 23 of Zamboanga City;

(c) Minda Mag Dadard: No investigation was conducted by the Pagadian City police department nor was the case filed in court due to lack of evidence and witnesses. The case remains under investigation by the Commission on Human Rights;

(d) Damiano Aninon, Marciana Aninon, and Dondil Aninon: To date the identities of the perpetrators have not been established despite efforts to this end, and the case continued under investigation;

(e) Nestor Loberio and Diomedes Abawag: A member of the Integrated National Police (INP) in Catbalogan, Samar, was named as a suspect in the case, and the investigation was continuing;

(f) Benjamin Mercado: The case remains under investigation by the Commission on Human Rights. According to the CHR investigation, Mr. Mercado had been questioned by the PC at camp Tolentino in Balanga, Bataan, prior to being killed;

(g) Ruben Medina: According to the official police report, Mr. Medina was apprehended by members of the INP at barangay Kaparangan, Orani, Bataan. While being taken to headquarters at camp Tolentino, Balanga, Bataan, he allegedly grabbed the firearm of a police escort and was shot dead as he

attempted to escape. It was stated that no witness to the alleged attempted escape had come forward. According to the Commission on Human Rights, the official report of the Samal police remained uncontroverted;

(h) Comelio (Oscar) Tagulao: The Commission on Human Rights is continuing its investigation of the case;

(i) Romeo Danan: A suspect was detained by the Lubao police at the Lubao municipal jail. The case was forwarded to the judge advocate general's office, northern Luzon command, camp Aquino, Tarlac;

(j) David Borja: The case remains under investigation. Witnesses were reportedly afraid to provide written statements for fear of reprisal despite offered protection and relocation assistance;

(k) Cornelio Limbaga: Proceedings were initiated before the municipal circuit trial court of Dimataling-Tahina-Pitogo, Zamboanga del Sur. An arrest warrant was issued against a TADTAD vigilante member but remains unserved;

(l) Josefina Abogada: The case remains under investigation by the Commission on Human Rights;

(m) Pastor Zenaido Ruelo: The Commission on Human Rights closed the case after the prime suspect, a CAFGU commander of Pitogo, Zamboanga del Sur, was himself killed following initiation of proceedings against him before the municipal circuit trial court of Pitogo;

(n) Crispulo Gloriano: Charges were filed against two CAFGU officers before the municipal circuit trial court of Buug-Bayog, Zamboanga del Sur;

(o) Norman Akien and Antonio Akien, Jr: The case remains under investigation by the Commission on Human Rights;

(p) Artemio Viray: The case remains under investigation by the Commission on Human Rights;

(q) In regard to the alleged use of chemical bombs on 12 September and 15 October 1989 by the Armed Forces of the Philippines (AFP) against non-military targets, the Commission on Human Rights closed the case after a visual inspection of the army's armoury failed to detect bombs or shells containing toxic chemicals.

422. Information regarding two alleged cases of death in custody was received as follows:

(a) Jacinto Manadis: Charges have been filed against two police officers of the ANCAR division of Quezon City before the judge advocate general's office in camp Crame, Quezon City. According to the Commission on Human Rights investigation, he was killed in a shootout when he grabbed and fired a police officer's gun;

(b) Jerry Ayban: Proceedings were under way before the regional trial court of Bontoc, Mountain province, against a CAFGU member who, at the time of the killing, was a corporal of the guard of the provincial forces.

Romania

423. On 15 June 1990, a cable was sent to the Government of Romania concerning reports received according to which at least four persons had been killed during clashes which occurred from 13 June 1990 onwards in Bucharest between demonstrators and security forces. It was also reported that a very large number of miners, who had associated themselves with the security forces, had violently attacked demonstrators.

424. In this connection, the Special Rapporteur appealed to the Government of Romania to take all necessary measures to prevent the further occurrence of such deaths and to protect the safety of the persons concerned and also requested information on the above-mentioned events and, in particular, on the investigation carried out by the competent authorities in this regard.

425. On 22 June 1990, the Special Rapporteur received a copy of a letter dated 18 June 1990 addressed to the Secretary-General from the Prime Minister of Romania, as well as a copy of a press release issued by the Government of Romania on 16 June 1990 concerning the events in Bucharest of 13 and 14 June 1990.

426. According to the above-mentioned letter, the events took place in Bucharest during 13 and 14 June, when, in order to prevent the Parliament and the country's President from beginning their work - as a result of the free elections of 20 May - extremist mobs besieged and devastated a series of State institutions. The violent and irresponsible acts ended with five people dead and over 100 wounded, and available information clearly showed the existence of a plan to overthrow the Government by force.

427. It was further stated that under such dramatic circumstances, when the forces of order risked being overwhelmed, the President-Elect and the Government appealed to the population to help the police and the army to prevent such acts of violence and vandalism, while giving instructions to avoid any bloodshed. The Government regretted that, during the actions taken to restore order, in a situation that remained confused, some citizens were molested and the headquarters of some political parties were attacked. According to the letter, at its meeting of 16 June, the Romanian Government established measures to put an end to any illegal acts, to restore the lawful order and to secure freedom of expression, political activity and the press.

428. With regard to all criminal acts that were perpetrated, the letter stated that sufficient evidence was available for instituting court proceedings against those responsible.

429. The press release by the Government on 16 June 1990 referred to the same events and gave the Government's account of the events.

430. On 9 July 1990, a letter was received from the Government of Romania in reply to the Special Rapporteur's cable of 15 June 1990, transmitting a copy of a letter dated 26 June 1990 to the Special Rapporteur on the situation of human rights in Romania from the Minister for Foreign Affairs. In addition to the Government's account of the events of 13 and 14 June 1990, the letter stated that on 13 June 1990, after all attempts had been exhausted by the

Government to establish a dialogue with demonstrators, the security forces and eventually the armed forces were obliged to intervene to put an end to the situation of disorder and violence. The operation was stated to have been carried out without any incident. According to the letter, in the afternoon of 13 June persons armed with knives and Molotov cocktails attacked the security forces and committed acts of vandalism, and in the evening several public buildings were attacked and set on fire, trapping people inside. The Romania Television building was also attacked and ransacked. It was stated that, in a situation where security forces were in danger of being overwhelmed, the President-elect and the Government appealed to the population to support the police and the army; in response, groups of citizens, in particular workers from Bucharest and other departments (Prahovam Buzen, Constanta) as well as miners from the Valley of Jiu responded to the appeal.

431. It was further stated that on 18 June 1990, after the events, the authorities recorded six deaths: one worker was stabbed by extremists, another died of coronary thrombosis, another died as a result of beatings during the attack on the television station, and the three others were shot dead. The letter stated that all the deaths were attributable to the mob violence of 13 June 1990. It was further stated that on 14 and 15 June 1990, in the course of restoring public order and due to the confusion prevailing at the time, some excesses did occur including molesting of citizens and attacks on headquarters of political parties. The letter further stated that on 18 June 1990, the House of Representatives adopted a resolution recognizing that the intervention by the security forces was necessary and legitimate. A joint parliamentary commission was said to have been set up in order to inquire into events occurring between 13 and 15 June and to determine those responsible.

Senegal

432. On 28 November 1990, a letter was sent to the Government of Senegal transmitting allegations that during the year 1990, non-armed civilians were killed in a summary manner and that others were killed after being tortured by security forces or the military. Most of the killings allegedly took place in the southern Senegalese region of Casamance where civilians were suspected of belonging to the Movement of Democratic forces of Casamance (Mouvement des forces démocratiques de la Casamance (MFDC)) or of providing food or munitions to that opposition political group. The following cases were described:

(a) Kaoussou Tamba, Aliou Tamba, Malick Tamba, Dembo Tamba, and Souleymane Goudiaby, peasants found dead on 21 September 1990 in Kanaw village, Casamance, after having been taken away in an army vehicle by several dozen soldiers who had entered the village with a list of names of individuals suspected of providing arms to the MFDC;

(b) Younonss Djiba, aged 27, from Kaguitte, Nyassia sub-district, department of Zinguincher; and Ampa Dakar, from Yotou village, department of Oussoye. In the beginning of October 1990, the two villagers died after having been detained and severely beaten at the military base in Kaguitte village. They had both been arrested by security forces for allegedly ransacking a food store to provide foodstuffs to the MFDC;

(c) During the first week of October 1990, in the context of operations against the MFDC, a patrol of security forces shot dead five unarmed civilians in Kaguitte village who allegedly attempted to escape.

433. At the time of preparation of the present report, no reply had been received from the Government of Senegal.

Somalia

434. On 26 July 1990, a letter was sent to the Government of Somalia transmitting allegations that during the previous year, in a situation of internal armed conflict between Government forces and armed opposition groups in several parts of the country, a number of unarmed civilians were killed by Government forces in a summary manner.

435. The following incidents were described:

(a) In March 1989, in Erigavo, 200 unarmed civilians were killed by Government troops after the Somali National Movement (SNM) occupied the town on 16 March 1989 and subsequently withdrew;

(b) On 20 September 1989, in Dobleh, lower Juba region, where the Somali Patriotic Movement (SPM) was fighting Government forces, some 60 civilians, including women and children, were killed by Government soldiers. On about 24 September 1989, 18 persons out of some 60 Somali refugees who had fled to Kenya and were forced to return to Somalia, reportedly were summarily executed by Somali soldiers;

(c) On about 24 November 1989, in the villages of Wargalo, Do-ol, Dowgab and Hilmo, near Galkayo, Mudug region, some 120 persons, including women and children, were executed in a summary manner by Government troops, in reprisal for a mutiny of soldiers belonging to the local Hawiye clan, or because they were suspected of having links with the rebel group called the United Somali Congress (USC). Those executed allegedly included the following: Hashi Awale Abdi "Hogolof", businessman and Hawiye clan elder; Abdullahi Abdul-Khaire "Hogolof", businessman, relative of the above; Mirreh Aden Abdi; Abdi Horreh Botan; Haji Shirwa Ali Bulale, Hawiye clan elder; Hassan Jumaale Dalah, Islamic teacher; Haji "Dogale", brother of the above; Ahmed Elmi Farada; Abdi Baris Hassan; and Haji "Sherwanage".

436. In addition, it was reported that Mohamoud Mohamed Mohamoud, an 18-year-old student from Mogadishu, was brought to Digfer hospital on 11 February 1990 in a coma and died on the following day. He was allegedly arrested on 9 or 10 February 1990 and interrogated under torture by the security forces in connection with the flight of his brother from the country.

437. Furthermore, several persons were reportedly sentenced to death by the National Security Courts for embezzlement of public funds or illegal foreign currency transactions. It was alleged that the defendants did not receive fair trials in the National Security Court nor were they allowed to appeal to a higher tribunal against their conviction and sentences. Cases were described as follows:

(a) On 30 November 1989, in Mogadishu, six persons, including Abdi Mudey Abdi, were sentenced to death by the National Security Court;

(b) The following were also sentenced to death by the National Security Court and are said to be awaiting execution: Shamso Mohamed Ali in Baidowa, an accounts clerk, sentenced to death in December 1988; Asha Mohamed, in Kismayu, an accounts clerk, sentenced to death in 1987 or 1988; Hassan Abdikarim Haji Ibrahim, in Mogadishu, a former government accountant, sentenced to death in February 1989.

438. On 28 November 1990, a letter was sent to the Government of Somalia transmitting allegations that in the context of an internal armed conflict intensified by recent offensives of the Somali National Movement (SNM) in the northern regions, unarmed civilians were killed in a summary manner by governmental forces particularly in conflict areas. Reports indicated that apart from indiscriminate attacks, many of the killings were carried out in retaliation for SNM activities or against civilians for suspected sympathy for the SNM. The victims reportedly belonged primarily to the Isaak clan. Cases were described as follows:

(a) On 6 July 1990, approximately 60 unarmed civilians were shot dead by military police of the presidential guard ("red berets") at the main stadium in Mogadishu during a football match. The incident started when the crowd shouted against a pre-match presidential speech; after the first half of the match a member of the military police shot into the crowd, provoking disturbances in the stadium. The military opened indiscriminate fire on the crowd of 30,000, killing a number of persons. Others died because the military refused to let the wounded receive treatment;

(b) On 16 August 1990, the Hangash branch of the military police arrested 17 persons in a restaurant in the northern part of Berbera and executed them the same evening in alleged retaliation for recent SNM activities. All 17 were members of the Issak clan, dominant in the town and suspected by the military of their sympathy for the SNM. The executions took place without any form of trial. Those executed were the following: Aden Mohamed Abokor; Abdullahi Abdi Ali; Aden Elmi Ali; Ahmed Ismail Ali; Abdi Mohamed Elmi; Ali Mohamed Isse; Ahmed Abdi Karshe; Abdi Mohamed Robleh; Aden Warsame Ali, former police officer; Ali Mohamed Ahmed; Abdullahi Ibrahim Ali; Abdullahi Ismail Yusuf; Abdi Hagar Dahir; Hussein Elmi Farah; Moogeh Osman Jibril; Mohamed Abdi Mohamoud, a UNHCR driver; Mohamed Ahmed Salah;

(c) On 16 June 1990, Giuseppe Salvo, an Italian medical scientist, disappeared from his hotel in Mogadishu. Military or security authorities reportedly claimed that he committed suicide while in custody after having been arrested by the authorities in a military zone. Reports indicate he died of head wounds received while in custody;

(d) In regard to the case of 46 unarmed civilians belonging to the Isaak clan killed by the presidential military police ("red berets") on a beach in Jezira, 30 kilometres south-west of Mogadishu, on 16/17 July 1989 (see E/CN.4/1990/22, para. 356), it was reported that despite a Government inquiry after the killings, no action was taken to bring those responsible for the killings to justice.

439. At the time of preparation of the present report, no reply had been received from the Government of Somalia.

South Africa

440. On 3 April 1990, the Special Rapporteur sent a cable to the Government of South Africa regarding the information received that on 26 March 1990 in the township of Sebokeng, at least nine persons had allegedly been killed when police had opened fire on demonstrators. The demonstration, which reportedly had been declared illegal under the state of emergency, was said to have been organized to protest against high rents and racially segregated housing.

441. In view of the reported incidents of violence in various parts of South Africa in the preceding weeks, the Special Rapporteur, feeling seriously concerned for the life of all those who might be affected by the tense situation, appealed to the Government to take all necessary measures to ensure that the right to life of every citizen was protected, and requested information on the reported deaths in Sebokeng and on the measures taken by the Government in this connection.

442. On 11 April 1990, the Special Rapporteur sent another cable to the Government of South Africa in which he expressed his serious concern with violent internecine black conflict in Natal, most recently during the period between the end of March and the beginning of April 1990 in Elandskop and Imbali where some 80 persons had reportedly been killed.

443. In this connection, the Special Rapporteur appealed to the Government to do its utmost to ensure that the right to life of the individuals concerned was protected in the above-mentioned situation of violent confrontation, and requested information in this regard, in particular on the measures taken by the Government to prevent further loss of lives.

444. On 26 July 1990, a letter was sent to the Government of South Africa transmitting allegations that in the previous year several persons had been killed by members of the police when shots were fired indiscriminately at a crowd of demonstrators or protesters. The following cases were described:

(a) On 29 September 1989 in Richmond, Natal, a 16-year-old schoolgirl was shot dead when police opened fire on 800 students marching to a police station to demand the release of detained pupils;

(b) On 18 November 1989, in Germiston, a railway worker on strike was shot by police and died in the hospital. This shooting occurred while the police were attempting to disperse a meeting inside the office of the Congress of the South African Trade Unions;

(c) It was reported on 25 January 1990 that two Khutsong residents were shot dead when police opened fire with shotguns as a crowd of protesters was dispersing after handing a letter to the police listing grievances which included alleged police brutality;

(d) It was reported that on 8 February 1990 in Garankuwa a crowd of thousands marching in protest against the "homeland" system was fired on by Bophuthatswana security forces, using tear-gas and rubber bullets. At least one person died later in the hospital;

(e) It was reported that on 9 February 1990 a youth was shot dead in Lamontville when police opened fire on a crowd of youths passing by the police office;

(f) It was reported that on 12 February 1990 in Tokoza, during a rally held to protest against high rents, police opened fire, killing three persons. Police reportedly claimed to have acted against stone-throwers and persons burning cars, but the injured victims denied these claims;

(g) It was reported that on 13 February 1990, in Barkly East, two youths had been shot dead. Residents reportedly stated that they had been celebrating the release of Nelson Mandela, but the police claimed that they had attacked a policeman's house;

(h) It was reported that on 13 February 1990 in Mdentsane, Ciskei, 10 persons were shot dead when police opened fire on celebrating crowds. It was also reported that police and marchers clashed in Hammansdraal, Bophuthatswana, during a celebration of the release of Nelson Mandela, and that a 16-year-old was killed;

(i) It was reported that on 25 February 1990, police shot and killed Bongi Nyokong, aged 17, a student at Tlokwe secondary school, Potchefstroom, as he hid under a teacher's bed. The incident followed a day of violence in the township and an abortive march by teachers on the Department of Education and Training offices;

(j) It was reported that on 27 February 1990, Bophuthatswana police opened fire on a crowd of 8,000 residents of Thlabane, near Rustenburg, killing two. The demonstration had been calling for the reincorporation of Bophuthatswana into South Africa;

(k) It was reported that on 27 February 1990 in Hankutama, Venda, two persons were killed in a stampede when tear-gas was used to disperse a crowd at a rally to celebrate the release of Nelson Mandela;

(l) It was reported that on 26 March 1990 in Sebokeng, at least 11 persons were killed by police who opened fire on protesters demonstrating against high house-rental rates. On 20 April 1990, President de Klerk reportedly ordered an inquiry into the deaths at Sebokeng;

(m) It was reported that on 20 April 1990 in the Rammulotsi black township, near Viljoenskroon in the Orange Free State, four boys between 13 and 16 years of age were killed when the police opened fire during a peaceful anti-apartheid demonstration;

(n) On 15 May 1990 in the Orange Free State town of Maokeng, two youths, Seiso Mangwerijane, aged 9, and Isahiah Tau, aged 18, were killed. Eyewitnesses claimed that police in disguise hiding under a tarpaulin in a rented truck had driven into town, and that when the truck stopped several armed policemen allegedly sprang out and opened fire;

(o) On 20 May 1990 in Thabong, a black township adjoining Welkom, four persons were killed when the police fired on a crowd leaving a meeting; three of the wounded died the following day.

445. It was also alleged that in the past year assassinations of political or anti-apartheid activists have occurred. In some cases in which the perpetrators were reportedly "unknown", it was alleged that little progress in official investigations was made and that most of the perpetrators remained unpunished. The following alleged incidents are summarized by way of example:

(a) In February 1989, Sawutini Booi, President of the Adelaide Youth Congress, died following a petrol bomb attack on his home by unknown assailants;

(b) It was reported that on 14 April 1989, Chris Thandazani Ntuli, aged 30, an organizer for the Natal Youth Congress, was stabbed to death by unknown assailants on his way home from a local police station where his restriction order required him to report twice daily;

(c) It was reported on 9 May 1990 that Colonel Floris Mostent, who was leading the investigation into the assassination of David Webster on 1 May 1989, claimed to have information that two employees of the Civil Co-operation Bureau (CCB) had been involved in the murder of Dr. Webster. A month after the assassination of Dr. Webster, other Five Freedom Forum representatives had also been subject to attack. Mr. Jan Mullen, one of the representatives, died when his house burned down and, although the inquest ruled that it was accidental death, other FFF members still questioned those findings. On 25 May 1990, Mr. Lambors Marinaki was reportedly shot twice while in bed;

(d) In March 1990 in Welkom, Mnikelo Ndamse, a black miner, was beaten to death by a white vigilante group known as "Blanke Veiligheid" (White Security) which had been formed in early March 1990 to halt a protest march by black teachers.

446. As in previous years, several deaths in detention were reported. The following cases were reported to have occurred in the past year:

(a) In November 1989, in Tembisa, Albert Simelane, aged 30, died shortly after being detained by police. Allegations of police violence and torture have been made in regard to his death;

(b) On 16 January 1990 near Khutsong, west of Johannesburg, Nixon Phiri, aged 16, died in police custody as a result of torture. A post-mortem revealed that he had died of a brain haemorrhage caused by external injuries and shock;

(c) On 29 January 1990, in Mutubatube, Michael Zunga, aged 20, died of strangulation having purportedly hung himself by his shoelaces while in a police station. Witnesses said in sworn statements that Zunga was beaten by police and then thrown unconscious and barefoot into the police van after a dispute about school fees;

(d) It was reported that in February 1990, in East Rand, Simon Tshebelale, aged 22, died after having been held as a robbery suspect at Grootvlei police station. According to a police representative, Tshebelale had resisted arrest and "force had to be used by the police, who had found stolen property in his possession";

(e) Other deaths in police custody include Sizwe Sithole, aged 20, and Mandla Manana, aged 27, both of whom were found hanged in their cells at John Vorster Square police station in Johannesburg. A commission of inquiry was opened on 30 January 1990 and its report was to be submitted to President de Klerk in March 1990;

(f) In February 1989, the bodies of Derrick Mashobane, Thabo Mohale and Porta Shabangu, members of the restricted South African National Student Congress, were found in Swaziland.

447. It was also alleged that killings occurred in the province of Natal during clashes between members and supporters of the African National Congress (ANC), United Democratic Front and members of the Inkatha movement. The violence in Natal allegedly claimed 80 lives in the week starting 27 March 1990, making a total of 3,000 deaths since 1985. The following alleged incidents are summarized by way of example:

(a) In December 1989, in the Elanskop area, seven known ANC sympathizers were murdered in the course of one week;

(b) It was reported that on 4 April 1990, the bodies of Celestine Mucwabe, aged 36, and her sister Emmerentia, aged 32, were found. It was alleged that they had been killed because they had been standing next to people who failed to bow to the command of the "warlord" Ntombela, as they owed their allegiance to the African National Congress (ANC);

(c) On 28 March 1990 dozens of people were killed in Mr. Ntombela's area of control.

448. It was further alleged that in the past year extrajudicial executions by "death squads", also known as "askaris", occurred. These death squads were allegedly linked to the security forces. A commission to study alleged killing by the death squads known as the Harms Commission, started on 5 March 1990 and inquiry into alleged "hit squads" in Pretoria. The Commission's mandate was to "inquire into and to report on the alleged occurrence of murders and other unlawful acts of violence committed in the Republic of South Africa in order to achieve, bring about or further any constitutional or political aim ...".

449. It was reported on 22 March 1990, that a brigadier of the South African police had affirmed an affidavit stating that one of the civil co-operation bureau (CCB) cells had been responsible for the assassination of David Webster and Anton Lubowski.

450. It was reported on 21 February 1990, that a chain of command involving several generals and leading to the office of General Malan ran the CCB, which was funded out of the South African Defence Force (SADF) budget but manned mainly by former policemen and decommissioned army intelligence officers.

451. It was reported on 26 April 1990 that Capt. Dirk Coetzee had informed the Harms Commission on 25 April 1990, during its session in London, that he had been instructed by Brigadier Jan van der Hoven, regional security commander, to "get rid" of Mr. Mxenge and make the killing look like a robbery.

452. On 27 April 1990, during the second day of testifying before the Harms Commission, Mr. Coetzee described how he and his unit of "askaris" (former ANC members who had been recruited for operations against their former colleagues) had carried out kidnappings and murders in South Africa and neighbouring countries.

453. It was further reported that Mr. Coetzee informed the Commission how, after many failed attempts to add poison (obtained from a senior officer at the police forensic laboratories) to the drinks of Mr. Vusi, a suspected ANC infiltrator who had refused to co-operate, and Mr. Peter, who had defected while studying in Bulgaria, the two men were rendered unconscious by "knock-out drops" and then had been taken hundreds of miles away to Transvaal, shot in the head and burned. He claimed that similar treatment had been used against another "askari", Issaac "Ace" Moema, "because he was always reserved - his heart wasn't in his job".

454. On 29 August 1990, a cable was sent to the Government of South Africa following information received from witnesses in the course of the hearings held in London together with the United Nations Ad hoc Working Group of Experts on southern Africa, concerning certain elements of the police and other law enforcement officials who had been assisting, encouraging, conniving, supporting and arming the members of the Inkhata movement, who had reportedly deliberately provoked violence. According to the testimonies, the law enforcement personnel, in restoring order, had not acted impartially and in many cases they had used more force than was warranted under the United Nations code of conduct for law enforcement officials. If the allegations were true, then substantial blame for violence which had led to great loss of life lay with the police.

455. In these circumstances, the Special Rapporteur strongly urged the Government of South Africa to appoint, on an urgent basis, an independent judicial commission to investigate the role of the police in the violent conflicts and establish the truthfulness or otherwise of the accusations against the police. He added that if any official was found guilty of the accusations, he or she should be prosecuted and/or disciplined as appropriate, and also requested any information on any action taken by the Government of South Africa in this regard.

456. On the same day, another cable was sent to the Government of South Africa stating that during the aforementioned hearings, information was received from a number of witnesses, including his wife, concerning Mr. S.R. Maharaj, a high-ranking member of the National Executive Committee of the African National Congress, who was in detention under section 29 of the Internal Security Act. According to the evidence received, a reasonable conclusion could be arrived at that the life of Mr. Maharaj was in danger.

457. In this connection, the Special Rapporteur appealed to the Government of South Africa to take all necessary measures to ensure the safety and physical integrity of Mr. Maharaj, and, in accordance with the letter and spirit of the United Nations Declaration on Apartheid and its destructive consequences in southern Africa, he further strongly appealed for the release of Mr. Maharaj. The Special Rapporteur also requested information on any action taken by the Government in this regard.

458. On 10 December 1990, a letter was sent to the Government of South Africa transmitting allegations that in numerous incidents of violence that continued in 1990 between members of Inkatha and other residents including members of the African National Congress (ANC), the United Democratic Front (UDF) and the Congress of South African Trade Unions (COSATU), hundreds of persons reportedly lost their lives. Since the first clash between Inkatha members and ANC supporters in Sebokeng on 22 July 1990, in which 27 persons reportedly died, incidents of violence reportedly spread from Natal province to the East Rand, West Rand and Soweto. As of October 1990, more than 700 persons were reported to have been killed in these incidents.

459. According to several sources, throughout these incidents of violence, the police maintained an inconsistent approach with respect to the bearing of arms by Inkatha as opposed to non-Inkatha residents. Kwazulu police allegedly did not remain impartial in the violence but even acted as the armed wing of Inkatha. In regard to the incident of violence on 22 July 1990 in Sebokeng, one source stated that although the Minister of Law and Order, the Divisional Commissioner of Police and the Commissioner of Police were informed beforehand of a planned attack by Inkatha on ANC and COSATU supporters, 500 to 600 Inkatha members arrived heavily armed and were accompanied by white officers. They allegedly attacked Sebokeng residents in the presence of the police. It was further reported that residents who tried to resist were fired upon by the police.

460. Furthermore, according to figures provided by the South African Human Rights Commission, during the first half of 1990, 170 deaths were caused by police in the course of disruption of public gatherings. The victims were allegedly hit by shots fired indiscriminately by police at demonstrators or protesters. By way of an example, it was reported that on 16 February 1990 at least four persons were killed when police tried to turn back demonstrators who were on their way to the Bloemfontein appeals court after a meeting in the township of Botshabelo, Orange Free State, to protest against forced incorporation into QuaQua.

461. In addition, it was reported on 14 January 1990 that Elias Sanguwane, a black constable from Jeppe police station, was assaulted by his white superiors and subsequently died in hospital of a brain haemorrhage.

462. It was also reported that on 26 July 1990, Taylor Ntsuka, aged 17, was shot dead on the playground of the Dr. Cingo High School in Maokeng, near Kroonstad, by two middle-aged white men dressed in khaki, driving a white Toyota minibus. It was alleged that police knew the identity of the men but that no arrest had been made.

463. Furthermore, several cases of death in detention were reported as follows:

(a) In February 1990, Tshebelale died at Grootvlei police station in East Rand after having been arrested as a robbery suspect. According to the police, Tshebelale had resisted arrest and "force had to be used by police, who found stolen property in his possession";

(b) In early 1990, it was learned that Bongani, aged 13, and Chatrakumtat, aged 14, who were detained on 20 July 1989 by police at Seearswart police station in connection with a students' school boycott, died

after two months' detention, as a result of torture. It was also alleged that the day following their arrest, police returned to the school and tried to break the students' boycott. When the students resisted, the police opened fire, killing three students named Siphiwe, Dumisay and Wiseman;

(c) On 14 May 1990, a man known as "Andile" was beaten to death by two constables at Humansdorp police station. A 16-year-old witness to the incident was allegedly threatened by the constables with death if he named them as responsible for the assault;

(d) On 1 June 1990, police stated that Donald Thabela Madisha committed suicide by hanging. He was a teacher and a member of the Mahwelereng Youth Congress, and had been detained on 17 January 1990 in Mahwelereng township, Potzietersrus, under section 29 of the Internal Security Act. It was not known whether any investigation had been carried out into his death;

(e) On 10 July 1990, in Khutsong, Eugene Mbulwana, aged 15, was detained by police. On 12 July 1990, he was transferred to Walverdiend police station, suffering from serious head injuries. Reportedly he was left, unconscious, on the floor for nine hours before being taken to Leratong hospital where he died on 13 July 1990.

464. At the time of preparation of the present report, no reply had been received from the Government of South Africa.

Sri Lanka

465. On 8 June 1990, a cable was sent to the Government of Sri Lanka concerning Dr. Manorani Saravanamuttu, mother of Richard de Zoysa, and Batty Weerakoon, the lawyer representing her at the magisterial inquiry into the abduction and killing of her son in February 1990, who received death threats demanding that they stop pursuing the case. According to the information, on 1 June 1990, Dr. Manorani Saravanamuttu had informed the Moratuwa magistrate's court that she had identified one of the abductors of her son as a senior superintendent of police in Colombo, who had subsequently been arrested.

466. In view of several recent cases where lawyers and witnesses involved in cases brought against members of the security forces had been threatened and subsequently killed, the Special Rapporteur expressed serious concern for the safety of Dr. Manorani Saravanamuttu and Batty Weerakoon, and appealed to the Government of Sri Lanka to take all necessary measures to ensure that their right to life was protected. He also requested information about the investigation into these cases of death threats as well as the case of the killing of Richard de Zoysa, and, in particular, on the measures taken by the Government to protect the safety of the above-mentioned two persons.

467. On 11 July 1990, another cable was sent to the Government of Sri Lanka referring to the above-mentioned cable of 8 June 1990 and stating that, according to further information, the two policemen currently guarding Batty Weerakoon's house had received death threats on 22 June 1990 in two letters addressed to them by name. As the names of the police officers had reportedly not been publicized, the fear was expressed that there might be accomplices inside the police force.

468. In this connection, the Special Rapporteur reiterated his serious concern for the life of the two police guards and of the two persons referred to in his previous cable and appealed again to the Government of Sri Lanka to take all necessary measures to ensure that their right to life was protected, and requested information concerning the investigation into these cases of death threats as well as on the measures taken by the Government to protect the safety of the above-mentioned four persons.

469. On 28 November 1990, a letter was sent to the Government of Sri Lanka transmitting allegations that during the 32 months of the presence of the Indian Peace-Keeping Forces (IPKF) in the north-eastern part of the country under the Indo-Sri Lanka accord signed in July 1987, a large number of unarmed civilians were killed in a summary manner by members of the IPKF, or by Tamil groups allied to the IPKF and acting with their acquiescence.

470. In addition to the alleged incidents of killings by the IPKF already transmitted to the Government, the following incident was reported: On 2 August 1989 in Valvettitturai, 52 persons were shot dead by IPKF soldiers when they rampaged through the town, shot at residents and set fire to houses and other properties. The victims included Vengadasalam Subramaniam, aged 60, S. Illayaperumal, aged 70, Rajaguru Javanaraj, aged 11, Aathy Sundareswaran, aged 11. The attack was said to be the reprisal for the LTTE Valvettitturai market ambush on an IPKF patrol in which six soldiers were killed.

471. In June 1990, after the Liberation Tigers of Tamil Eelam (LTTE) reportedly had taken effective control of the north-eastern part of the country, following the withdrawal of the IPKF from Sri Lanka in March 1990, heavy fighting was said to have resumed between the Sri Lankan Government forces and the LTTE, causing a large number of deaths among the civilian population in Jaffna, Trincomalee and Batticaloa districts. During the fighting a large number of civilians were reportedly killed in a summary manner by both sides. While allegations of summary or arbitrary killings by the LTTE were numerous, including the killings in the eastern part of hundreds of policemen who had surrendered and incidents of killing of Muslims in August 1990, reports were received of killing in a summary manner of hundreds of civilians by Government forces after they regained control of the areas held by the LTTE. Several of the victims were said to have been killed summarily after they had been detained. The following were among such incidents of killings:

(a) On 14 June 1990, in Vavuniya, Batticaloa district, Government forces shot and killed unarmed civilians, including Anthony Pillai, a public health inspector, his wife and son, after they had recaptured Vavuniya police station from the LTTE. About 15 bodies were found on the road;

(b) In the last week of June 1990, in Vellavelli village, Batticaloa district, 15 civilians, including a school teacher, were killed by army and police personnel;

(c) After the town of Kalmunai was recaptured by Government forces from the LTTE on 21 June 1990, soldiers shot residents in their homes, including Thiyagarajah. On 22 and 23 June, soldiers rounded up men between the ages

of 16 and 30, lined them up blindfolded and either shot them or stabbed them to death with bayonets. The bodies were then thrown into shops owned by Tamils and were set on fire. Over 30 bodies were found in one burnt-out shop, including the body of 23-year-old Chandrikumar.

472. Furthermore, it was alleged that Government forces carried out indiscriminate air bombardment and shelling on residential and non-military targets, including schools and hospitals. The following were reported to be among the numerous deaths resulting from indiscriminate bombings:

(a) On 13 June 1990, at Amparai Central Camp Tamil Village, 100 persons, including women and children, were killed;

(b) On 16 June 1990, in Kalavanchikuddi, 10 patients were killed when the hospital was hit by a bomb;

(c) On 26 June 1990, in Kokkuvil, seven civilians were killed;

(d) On 28 June 1990, in Kilinochi district, eight students were killed when their school came under attack;

(e) On 30 June 1990, in Pulmottai area, Trincomalee, 40 Tamil displaced persons were killed by gunfire from a Sri Lankan navy vessel.

473. In addition, in the southern and central parts of the country, killings and death threats directed at suspected supporters of the Janatha Vimukthi Peramuna (People's Liberation Front, JVP), opposition members of Parliament and other suspected opponents of the Government allegedly continued to occur, although there were fewer reports of such occurrences compared to the period from August 1989 to February 1990. The following such cases were reported:

(a) On 18 December 1989, Lalith Warushahennadi, aged 24, a student of agriculture at Peradeniya University, was found dead in Tellabur after having been detained by army personnel on 12 December at the Yakkalamalla Army Camp in Galle district;

(b) Following the Government's "shoot-on-sight" orders to police reportedly issued on 8 July 1990 in the southern provinces, scores of bodies were found dumped in places such as Diyagama, Gampaha district; Bandaragama, Kalutara district; Embilipitiya, Ratnapura district; Suriyawewa and Beliatta, Hambantota district.

474. With regard to the case of Richard de Zoysa, which was referred to in the Special Rapporteur's cables of 8 June and 11 July 1990 to the Government, it was reported that the magisterial inquiry into his death was discontinued on 30 August 1990 and that the Attorney General decided to take no action against the senior police officer named by de Zoysa's mother as having been among those who abducted her son in February 1990. According to the information received, the case was being investigated by police, although police officers were alleged to have been involved in the abduction and killing of de Zoysa.

475. On 17 January 1990, a reply was received from the Government of Sri Lanka to the Special Rapporteur's letter of 30 October 1989 (see E/CN.4/1990/22, paras. 386 to 388) and to his cable dated 9 November 1989 (see E/CN.4/1990/22, paras. 389 to 392), commenting on the following cases:

(a) Charitha Lankapura: According to police investigations, two unidentified persons had on 7 July 1989 entered the house where Mr. Lankapura was boarded and shot him dead. A magisterial inquest was held into this incident and a verdict of "murder by shooting" was returned by the magistrate who ordered the police to conduct further investigations;

(b) Kanchana Abeypala: Investigations revealed that he was killed by an unknown gunman who had entered the house on 20 August 1989. Mr. Abeypala's father was also injured in the incident. A magisterial inquest was held and the magistrate ordered the police to conduct further investigations. The police have reported that those living at Mr. Abeypala's house who had seen the gunman failed to co-operate and that this has hindered investigations. No suspect had yet been arrested in connection with this murder and the police investigation was continuing;

(c) Sarath Karaliyadda: The investigation revealed that on 26 October 1989, eight armed persons dressed in civilian clothes entered Mr. Karaliyadda's house in Teldeniya police area. These persons had ransacked the house and removed jewellery and cash. They led Mr. Karaliyadda away from the house, and his dead body was subsequently found about a quarter of a mile away. A magisterial inquest was held by the Teldeniya magistrate and was to be resumed after further investigations.

476. The reply also stated the following on the situation in Sri Lanka:

(a) Unsettled security conditions in the northern, eastern and southern parts of Sri Lanka due to the escalation of violence remained a matter of serious concern to the Government. These incidents posed a serious problem for law enforcement authorities in that normal investigations into these activities proved extremely difficult; where investigations had been initiated and judicial inquiries held these could not be completed due to the fact that the law enforcement authorities had to cope with an unprecedented situation in maintaining law and order in the context of conditions prevailing at that time. The judicial authorities, however, continue to investigate reported incidents under the normal laws, including under habeas corpus procedure which was available even under the emergency regulations;

(b) In the northern and eastern parts of the country where the IPKF was present the security situation was not conducive to normal investigations. Despite the IPKF presence militant Tamil groups in the area had not been disarmed as envisaged. The introduction of more weapons, the existence of illegal armed groups and the resulting internecine clashes between rival militant groups have placed serious impediments in the way of the efforts of restoring peace and normalcy in the areas concerned as well as on the conduct of normal investigations into reported violent incidents. To overcome these, the Government took a number of steps:

(i) Implementing the provisions of the Provincial Council Act in the areas of law and order;

(ii) Facilitating negotiations between the Government and the one militant group (LTTE) which had hitherto remained outside the democratic process;

(iii) Secured agreement with the Government of India to complete the withdrawal of the IPKF by 31 March 1990. The Government was also working towards securing a cease-fire among the rival groups who were engaged in violence;

(iv) To expedite the ICRC's access to the northern and eastern parts of the country;

(c) With regard to incidents reported in areas other than the north and east, constraints on investigations also existed. However, the situation improved consequent to measures taken by the Government:

(i) The Government convened an All Party Conference (APC) to find a consensus among democratic political parties with a view to restoring peace and normalcy, and to address and resolve the crucial national issues which underlie the problems the country has been facing;

(ii) The Government was seriously concerned about reports concerning violence by militant groups in the south which did not accept political negotiations as well as about reported acts of violence by other unidentified groups. The Government ordered the security forces and the police to identify and disband any illegal paramilitary groups in all parts of the country. It also gave clear instructions to law enforcement agencies that such groups, if they existed, should be treated as terrorists. An independent investigation unit comprising senior civilian and police officials was set up to investigate this alleged phenomenon and to make recommendations for the disbandment of such groups, if any should exist. The public was requested to provide information to this unit;

(iii) The Government invited the ICRC to exercise its traditional humanitarian functions in the country;

(iv) The Government also appointed an independent commission to go into all aspects of the youth unrest and make recommendations on possible courses of action to address the rootcauses of the present problems;

(d) Whilst the Government was deeply concerned about the acts of violence committed in the country in the past, it was nevertheless hopeful that the political efforts being undertaken on a broad front would restore democratic institutions and the functioning of normal law and order machinery.

477. On 28 December 1990, a reply was received from the Government of Sri Lanka to the Special Rapporteur's letter of 28 November 1990, providing information on the efforts made by the Government with regard to the situations in the north and east of Sri Lanka as well as in the southern and central parts of the country. It also provided a brief account on the progress of the investigation into the case of Richard de Zoysa.

478. With regard to the situation in the north and east of the country, the reply stated that the Government persisted in its efforts to resolve the socio-political issues involved, through negotiations with all parties irrespective of their ethnic origin, with a view to the devolution of governmental authority; that in pursuit of this endeavour to find a compromise acceptable to all parties, regional power-sharing structures in the form of provincial councils were formed by the adoption of the 13th amendment to the Constitution; that as a result, all political parties and groups, including the Tamil parties representing the population of the north and east, entered the democratic political process and that the Liberation Tigers of Tamil Eelam (LTTE) was the only group which refused to do so. According to the reply, the LTTE refused to participate in both provincial and national elections, while simultaneously continuing their acts of terror and intimidation against the people of the north and east and against LTTE's political rivals belonging to the Tamil community. It was stated that with a view to persuading the group to renounce violence, the Government had initiated and engaged in a dialogue with the LTTE for over one year. All possible concrete measures were taken to enable them to feel confidence in the negotiating processes including the withdrawal of the IPKF from Sri Lanka in March 1990, and the dissolution of the North East Provincial Council and the holding of new elections in those areas, thus providing an opportunity for the LTTE to participate, which the LTTE refused to do.

479. It was further stated that the process of devolution of power to the Councils was further expedited, that the presence of the Government security forces in the area after the withdrawal of the IPKF was substantially reduced, that the remaining security forces were confined to their barracks and that action was taken to create a provincial police force representing the ethnic ratio of the respective areas. It was also stated that the security forces were instructed not to do anything which might be seen as jeopardizing the ongoing dialogue with the LTTE.

480. However, according to the reply, the LTTE resorted to unilateral and unprovoked violence on 10 June 1990, on police stations in the north and east. It was stated that these police stations were manned mainly by Tamil policemen and had even been set up at the request of the LTTE; that a large number of policemen were abducted, and that some were brutally killed. It was also stated that two cease-fires offered by the Government were totally disregarded by the LTTE. The Government could not ignore the violent and unprovoked attacks initiated by the LTTE, which had flouted all attempts at a negotiated settlement and had systematically murdered most of the Tamil political leaders who had advocated the path of democracy and negotiations. With regard to allegations of indiscriminate bombing by the security forces of civilian targets, the reply emphasized that the actions which the security forces were forced to undertake against the LTTE were directed not against civilians but against the terrorism of the LTTE, and that in fact the security forces refrained from taking action against the LTTE in certain areas such as the Mannar area, even at the expense of conclusive military action, as the LTTE deliberately took refuge behind civilians. It was also stated that the Government remained committed to a negotiated solution to the problems and continued to negotiate with all other Tamil parties and others within the framework of the All Party Conference convened for this purpose.

481. According to the reply, over a million persons of all communities have been forced to flee their homes for other parts of the country and even overseas because of forced conscription, extortion and robberies committed by the LTTE; that civilian administration and transport have been disrupted as a result of acts of sabotage by the LTTE; that atrocities were committed by the LTTE not only against Tamil and Sinhalese civilians but also against Muslims in the north and east, including the gruesome massacres at a Muslim mosque in 1990 and the forced expulsion of over 40,000 Muslims at one time from their homes in the Mannar area.

482. In its reply, the Government of Sri Lanka acknowledged that any situation of conflict where security forces were called upon to take action against terrorists who merge with the local population could pose hardships for civilians and operational constraints. It was stated that great care was exercised to avoid civilian areas and that advance notice was given to civilians when operations were undertaken to relieve soldiers besieged by the LTTE terrorists.

483. With regard to the situation in the southern and central parts of the country, the reply stated that normality had been restored, although there were reports concerning some residual violence as a result of unidentified groups reportedly taking revenge on those believed to be responsible for killings attributed to subversive elements during a period of escalating violence in 1990. It was stated that the Government was seriously concerned over such acts, which are illegal under the laws of Sri Lanka, and was taking severe measures against those responsible for exceeding their legitimate duties. It was further stated that in order to investigate all such reported illegal activities, an independent committee headed by two retired judges of the Supreme Court identified this problem last year and the Presidential Commission on youth unrest also made reference to this issue; that a mechanism was already worked out to receive information from the public regarding the activities of such groups; and that clear and unequivocal instructions had been given to law enforcement authorities to identify, disarm and disband all such groups.

484. With regard to the case of Richard de Zoysa referred to in the Special Rapporteur's communications, it was stated that investigations were continuing with a view to identifying and prosecuting the offenders in accordance with the laws of the country. It was also stated that the magisterial inquest was inconclusive as to the identity of the suspected offenders, as insufficient evidence was available against the police officer named by the victim's mother. With regard to the observation that the police are being entrusted with investigations into allegations involving police officers themselves, the reply pointed out that the law enforcement authorities had to depend on the investigative arm of the police to obtain legally valid evidence to support prosecutions, and that there had been other similar instances involving police officers which had eventually resulted in their detention. It was stated that while the authorities continued to pursue investigations, the Sri Lankan Parliament would shortly debate a motion calling for a commission of inquiry into this case.

Sudan

485. On 8 January 1990, the Special Rapporteur sent a cable to the Government of Sudan regarding the information received that Gergis Al-Ghous Boutros, an assistant pilot of Sudan Airways, sentenced to death on 24 December 1989 by special court number 1 in Khartoum for having contravened recently introduced currency regulations, might be facing imminent execution. According to the information, Gergis Al-Ghous Boutros had been allowed to have only limited legal assistance and, under the terms of the procedures of the special court, could lodge an appeal against his sentence only with the chief justice; he did not have the right to appeal to a higher tribunal.

486. In this connection, the Special Rapporteur, referring to articles 6 and 14 of the International Covenant on Civil and Political Rights to which Sudan was a party and also to safeguards 5 and 6 of the annex to Economic and Social Council resolution 1984/50 of 25 May 1984 entitled "Safeguards guaranteeing protection of the rights of those facing the death penalty", appealed to the Government to make every effort to guarantee the right to life of Gergis Al-Ghous Boutros and requested information on the above-mentioned case and, in particular, on the legal proceedings according to which this person had been sentenced to death.

487. On 7 May 1990, another cable was sent to the Government of Sudan concerning nine persons - Abderrahmane Farah, Bakir Adel, Abderrassul Al-Nur, Lieutenant General Fawzi Ahmed Al-Fadel, Lieutenant General Mahdi Babu Nimir, Fadlalla Burma Nassir, Lieutenant Abderrahmane Sadiq Al-Mahdi, Abderrahmane Al-Sayed and Brigadier Osman Abdulmutaleb - who were reported to be among a group of over 35 people arrested in late March 1990 for their alleged involvement in a conspiracy to overthrow the Government.

488. In the same context it was reported that 28 senior army officers had been executed on 24 April 1990 after being convicted by a military court. It was alleged that they had been executed following a summary trial and that they had been denied legal representation and the right to appeal to a higher court.

489. Concerned with the fate of the above-mentioned persons who might also have been tried summarily and might be in danger of execution, the Special Rapporteur appealed to the Government to make every effort to guarantee their right to life and requested information in this regard.

490. On 26 July 1990, a letter was sent to the Government of Sudan transmitting allegations as follows:

(a) On 24 April 1990, 28 retired and serving army officers, accused of involvement in an attempted coup, were executed after a summary trial, which lasted for two hours. Before and during the trial, the rights of the accused, including the right to legal counsel, were not granted. The names of the 28 persons were given as follows: Major-General (retired) Khalid al-Zein Ali, Major-General (retired) Osman Idriss al-Bolol, Major-General (retired) Hussein Abdel Gadir al Kadru, Brigadier (retired) Mohamed Osman Ahmad Karrar, Staff-Colonel Ismat Mirqhani Taha, Staff-Colonel Bashir Mustafa Bashir, Staff-Colonel (retired) Mohamed Ahmad Grassim, Colonel Salah al Sayyid Hussein, Lieutenant-Colonel Bashir Amir Abu Dik, Lieutenant-Colonel Mohamed Abdel Aziz Ibrahim, Lieutenant-Colonel (retired) al Sayyid Hussein Abdel Rahim, Lieutenant-Colonel (retired) Abdel Moneim Hassan Ali Karrar,

Lieutenant-Colonel (retired) Bashir al Tayib Mohamed Saleh, Major Salah Al Dardiri Babiken, Major el Fatih Khalid Khalil, Major Osman al Zein Abdullah, Major Babiker Abdel Rahman Nugudallah, Air Force Major Atram al Fatih Yusuf, Major al Sheik al Baqir al Sheikh, Major Mu'awiyah Yasin Ali, Major Nihad Ismail Hamidah, Major Isam al Din Abu al Grassim Mohamed, Major (retired) al Fatih Ahmad Llyas, Major (retired) Sid Ahmad Salih, Major (retired) Taj el Din Fatih al Rahman, Captain Muddathir Mohamed Mahjub, Air Force Captain Mustafa Awad Khawajali, Captain (retired) Abdel Moniem Khasr Kumerier;

(b) During the past year, several other persons were said to have been executed after having been sentenced to death by the Special Courts. The procedure followed by the Special Court allegedly did not guarantee the rights of the defendant as provided for in the International Covenant on Civil and Political Rights, including the right to legal counsel before or during the trial and the right to appeal to a higher tribunal. Cases were described as follows:

(i) On 14 April 1989, in Khartoum, Arkango Agadad was executed after having been sentenced to death by the special court No. 2 in Khartoum;

(ii) On 5 February 1990, in Khartoum, Gergis Al-Ghous Boutros, an assistant pilot working for Sudan Airways, was executed after having been sentenced to death on 24 December 1989 by special court No. 1 for breaking currency regulations. He was accused of attempting to smuggle foreign currency out of the country;

(iii) On 17 December 1989, Sayed Ahmed Ali Gaballay, a suspected drug dealer, was executed;

(iv) On 17 December 1989, Magdi Mahgoub, a businessman, was executed for a similar offence;

(v) On 18 February 1990, in Omdurman, Hani Mohamed Hamad was sentenced to death by the special court in Omdurman, after having been convicted of drug trafficking;

(vi) On 7 September 1989, Jalal Ahmed Bacre was sentenced to death by the special court in Blue Nile region, after having been convicted of drug trafficking;

(c) In the situation of internal armed conflict in the southern part of the country where rebel forces called the Sudan People's Liberation Army (SPLA) were active and in several instances killed soldiers after they had surrendered to the rebel forces, Government forces killed in a summary manner unarmed villagers during counter-rebel operations. Some examples of such incidents were described as follows:

(i) On 23 April 1989, in a village near Abri in the Nuba mountains, 17 civilians (men, women and children) were killed in the village of Iessa by soldiers. The names of 11 victims were given;

(ii) On 19 July 1989, 34 men and woman were killed by soldiers. The names of 11 victims were given. Their bodies were dumped in a well in the north-west town of Wan;

(iii) On 7 October 1989, in El Markhiyat Hills, near Khartoum, 21 soldiers, including 14 southerners and 7 from Nuba, suspected of collaboration with SPLA, were summarily executed on orders of the minister for cabinet affairs;

(d) Furthermore, on 21 April 1990, in secret detention in Khartoum, Ali Fadul, aged 30, a medical doctor, died as a result of torture.

491. On 28 November 1990, a letter was sent to the Government of Sudan transmitting allegations as follows:

(a) In 1990, several persons were sentenced to death by special courts whose judges were appointed by the President or by military commanders. Some of the sentences were pronounced under the Narcotics Act of September 1989 which carries a mandatory death sentence for drug trafficking. According to information received, the safeguards provided for by the International Covenant on Civil and Political Rights in order to guarantee a fair trial were not respected in the trials by the special courts. In particular, legal representation before or during trial and appeals to a higher court were allegedly not allowed. The following case was described as an example: In August 1990, Mohammed Fadilallah Othman was sentenced to death under the Narcotics Act of September 1989 by the special court in Omdurman after being convicted of drug trafficking;

(b) In the context of internal armed conflict, renewed in October 1989 after a series of unilateral cease-fires, and particularly in the southern region of the country where the Sudanese People's Liberation Army (SPLA) had been active, numerous unarmed civilians were killed in a summary manner by Government forces or the militia for their suspected sympathy for the SPLA. Since the Popular Defence Act was passed in November 1989, the militia have been trained, supported and controlled by the army. Incidents were described as follows:

(i) In late October and early November 1989, at least 44 unarmed villagers were killed by Government militia in the Keiga Alkhel area in southern Kordofan. Over half of the victims were women and children;

(ii) More than 100 unarmed Nuba villagers were killed in military raids in October 1989 in the Lagawa area in southern Kordofan;

(iii) Between February and May 1990, dozens of unarmed civilians were killed by Government troops as a convoy of 13,000 soldiers travelled from Malahal to Juba in southern Sudan. Several villages were burned and others looted by the Government soldiers. Civilians in the area around the town of Ayod were reported to have been targeted, including the following four elderly men burned to death in Dior: Gai Mabior, Wen Puot, Bilieu Nyar and Kong Wen.

492. On 5 February 1990 a reply was received from the Government of Sudan to the Special Rapporteur's cable of 14 December 1989 (see E/CN.4/1990/22, paras. 397 to 399) stating that the Secretary-General for Special Political Questions, Regional Co-operation, Decolonization and Trusteeship of Sudan, had already made representations to the Head of State of Sudan on the case of Dr. Mamoun Mohamed Hussein.

493. On 21 May 1990, another reply was received from the Government of Sudan to the Special Rapporteur's cable of 7 May 1990 stating that as regards the nine persons, the Government had set up a commission of inquiry to investigate their involvement in the conspiracy and that if adequate evidence and proof were established beyond any reasonable doubt, they would be indicted and would face a just trial in accordance with the law. It was also stated that concerning the 28 who were executed by firing squad, these persons had been tried by a competent high military court and that the judgement of this court was fair and could not be subject to an appeal in conformity with the stipulations of the relevant military laws.

Suriname

494. On 26 July 1990, a letter was sent to the Government of Suriname transmitting allegations that on 26 March 1990 in Paramaribo, two bodyguards of Ronnie Brunswijk, the leader of the "Jungle Commando", a rebel group, were shot dead by a member of the national army while they were accompanying Ronnie Brunswijk and his advisors to a meeting with the commander of the army for peace negotiations. The two bodyguards were allegedly not armed when they were shot.

495. At the time of preparation of the present report, no reply had been received from the Government of Suriname.

Syrian Arab Republic

496. On 26 July 1990, a letter was sent to the Government of the Syrian Arab Republic transmitting allegations that Munir Fransis died on 14 or 15 April 1990 in al-Muwassa'a Civil Hospital in Damascus due to internal bleeding caused by torture inflicted during his detention. Munir Fransis was reportedly arrested together with some 15 persons by al-Amn al Siyassi at the end of March 1990 in Damascus after slogans critical of the Government were found written on the walls of the town.

497. On 28 November 1990, a letter was sent to the Government of the Syrian Arab Republic transmitting allegations that on 13 and 14 October 1990, Syrian troops reportedly carried out joint military operations with the Lebanese Army against the forces of General Aoun in Dahr-al-Wahsh and Souk-al-Gharb, Lebanon. In the context of this armed conflict, a large number of persons were allegedly killed in a summary manner by Syrian military, in acts of retaliation for heavy Syrian losses allegedly inflicted by Aoun supporters who, according to Syrian military sources, opened fire after having waved white flags and having pretended to surrender. The victims allegedly

comprised, inter alia, unarmed Lebanese civilians and Lebanese soldiers of General Aoun, captured by the Syrian military. The following cases were described:

(a) On 13 October 1990, approximately 100 soldiers of General Aoun were reportedly killed in a summary manner by Syrian military after being captured and taken as prisoners at Dahr-al-Wahsh, east of Beirut. The bodies brought from the forest near Dahr-al-Wahsh by the Red Cross to the Baabda general hospital bore signs of having been shot at close range with hands tied and in a kneeling position;

(b) On 14 October 1990, 14 unarmed civilians were killed in an arbitrary manner by Syrian troops in the aftermath of the armed conflict when Syrian troops reportedly ransacked homes in Bsous township in search of Aoun loyalists.

498. At the time of preparation of the present report, no reply had been received from the Government of the Syrian Arab Republic.

Tunisia

499. On 28 November 1990, a letter was sent to the Government of Tunisia, transmitting an allegation that on 3 May 1990, the body of Hédi Boutaieb, a student, was found in the desert bearing signs of torture, after having been forcibly recruited into the Tunisian army after the February 1990 student uprisings and having disappeared from the Rémada military base on 4 April 1990.

500. At the time of preparation of the present report, no reply had been received from the Government of Tunisia.

Turkey

501. On 26 July 1990, a letter was sent to the Government of Turkey transmitting allegations that during the past year several persons were killed by security forces in the south-eastern part of the country. The victims were said to be suspected of membership in or support for Kurdish guerrilla groups. Cases were described as follows:

(a) On 16 September 1989, in Kumcati Village, Hasan Utanc, aged 28, Tashir Sevim, aged 25 and Hasan Caner, aged 39, were abducted around 7.00 p.m. while they were driving. They were later found dead near Ozbek village in Mardin province and the time of their death was established to have been at about 11.00 p.m. It was alleged that the three were killed by security forces;

(b) On 19 July 1989, in Kemerli Village, in Sirnak province, Mahmut Yasar, aged 14, was killed by security forces while he was herding sheep;

(c) On 18 July 1989, three inhabitants of Yoncali Village, Hakkari province, were killed by a security forces commando unit. The three were: Sehmuz Orhan, Bünyamin Orhan and Sabri Orhan;

(d) On 17 September 1989, near Derebasi village, Silopi district, Mardin province, six villagers were killed by security forces. The names of the six were given as: Fevzi Beyan, Resit Even, Uzeyir Arzik, Abbas Cigdem,

Sadun Beyan and Munir Aydin. The Emergency Legislation Deputy Regional Governor reportedly stated on 17 September 1989 that nine terrorists had been killed near Derebasi Village when they had not obeyed an order to stop;

(e) On 2 October 1989, in Yakaribesparmak, Gürptnar district, Nedim Oner, a brother of a tribe leader, was killed in a summary manner by security forces. On 4 October the Regional Governor reportedly stated that Nedim Oner was one of six "terrorists" who had died in an armed clash with security forces;

(f) On 7 November 1989, in Suruc, Ali Ay was shot dead by security forces while he was sitting in the house of his uncle Igget Ay. The deputy prosecutor of Sanltiurfa reportedly stated on 15 November 1989 that a Kurdish Workers Party (PKK) militant had been killed in an armed clash when he refused to obey an order to stop.

502. On 28 November 1990, another letter was sent to the Government of Turkey, transmitting a number of alleged cases of deaths in detention as a result of torture and also an incident of killings by the gendarmerie of unarmed civilians in a Kurdish region. Cases were described as follows:

(a) On 6 May 1990, Ali Akkan died in the custody of the political police in the Antalya police headquarters after having been arrested on 5 May 1990 at approximately 10.00 p.m. with two other relatives on suspicion of having given shelter to a member of an illegal organization. On 6 May his uncle was informed at the police station that Ali Akkan had committed suicide by jumping out of a window. On 11 May 1990, the Antalya prosecutor decided that there were no grounds for a prosecution in this case. His relatives and members of the Human Rights Association, not convinced by the official version of his death, appealed against the prosecutor's decision and demanded a second autopsy;

(b) On 4 June 1990, Serdar Cekic Abbasoglu was found dead in his cell at the Ankara closed prison after having been brought there three days earlier from Ankara police headquarters. When he arrived at the prison, he was said to be bleeding from his mouth and nose. He had been detained on suspicion of burglary. An official investigation into this case was reportedly initiated but its findings have not yet been made public;

(c) On 9 June 1990 an armed attack on the Kurdish village of Cevrimli was reportedly carried out by the ninth regiment of the gendarmerie in which 26 unarmed civilians, primarily women and children, were shot to death, in retaliation for villagers who had refused to become "protectors of the village" under the control of the security forces.

503. On 23 October 1990, a reply was received from the Government of Turkey to the Special Rapporteur's letter of 26 July 1990 transmitting information on cases as follows:

(a) Hasan Utanc, Tahsin Sevim, and Hasan Caner: The investigation was being carried out by the public prosecutor of Idil and had so far indicated that the bodies were found with eyes blindfolded and hands tied, shot with 7.62-calibre bullets from Kalishnikov rifles;

(b) Mehmet (Mahmut) Yasar: The conclusion of the investigation by the office of the district governor and confirmed by the provincial governor was that he was shot dead for not obeying orders to stop during a security operation near Kemerli, Sirnak province, and that no grounds existed for further proceedings;

(c) Seyhmuz Orhan, Bünyamin Orhan, and Sabri Orhan: Sabri and Bünyamin Orhan died on the spot in a exchange of fire between security forces and terrorists; Seymuz was wounded and subsequently died in Hakkari state hospital. Although there was no need for judicial proceedings, the decision was referred to the Council of State for further examination;

(d) Fevsi Beyan, Resit Even, Uzeyir Arzik, Abbas Cigdem, Sadun Beyan, and Munir Aydin: Six of nine persons were killed in an armed clash with security forces, according to an investigation by the office of the governor and the Council of State, and according to a decision by the administrative council of Mardin province, there were no grounds for further proceedings;

(e) Nedim Oner: It was established that Nedim Oner opened fire against security forces in order to enable another terrorist to escape from a gendarmerie and was shot dead in the crossfire. Competent authorities had previously issued an arrest warrant for his alleged co-operation with a terrorist organization and drug-smuggling;

(f) Ali Ay: An investigation by competent authorities concluded there were no grounds for action against security officials who shot Ali Ay dead while attempting to arrest him on charges of belonging to a terrorist organization.

504. On 11 December 1990, a reply was received from the Government of Turkey to the Special Rapporteur's letter of 28 November 1990, providing the following information on the cases transmitted:

(a) Ali Akkan: A public lawsuit was initiated against three policemen on the basis of the Antalya public prosecutor's indictment dated 19 September 1990. In the indictment, the public prosecutor demanded the punishment of the policemen concerned according to articles 448, 31 and 33 of the Turkish penal code. The trial proceedings were still continuing at the 2nd Antalya high criminal court. The court requested the forensic department to carry out a new medical inquiry in light of the additional information supplied by the witnesses;

(b) Serdar Cekic Abbasoglu: He had been arrested for theft. On 4 June 1990 he was found dead in his bed inside the prison. The prosecutor immediately initiated an investigation. No evidence of trauma could be found as a result of the autopsy. No trace of poison could be detected in the beverages or in the food found in the room of the deceased. Histopathological analysis of internal organs revealed no sign of ill-treatment or induction of extraneous agents into the body. Doctors established the cause of death as heart failure and aspiration insufficiency resulting from defects in the coronary artery. Consequently, the public prosecutor decided on 4 September 1990 that there was no ground for further action;

(c) Massacre in Cevrimli: On 10 June 1990, a group of PKK terrorists raided Cevrimli village, Sirnak province, murdering 26 civilians, including women and children. Attached to the Government's reply on this matter was a news report from the Turkish daily Tercuman, a statement issued on 13 June 1990 by the Department of State of the United States of America and a joint declaration by the Turkish parliamentarians attending the Conference on Security and Co-operation (CSCE) held in Copenhagen in June 1990, all of which supported the Government's position.

Union of Soviet Socialist Republics

505. On 26 July 1990, a letter was sent to the Government of the Union of Soviet Socialist Republics transmitting allegations as follows:

(a) In a dispute which arose between Azeris and Armenians in 1987 over the jurisdiction of Nagorno-Karabakh Autonomous region, and in intercommunal violence which continued in Armenia and Azerbaijan, more than 300 persons died on both sides. Among the reported incidents was the following: On 30 January 1990, during a demonstration in the Azeri capital of Baku, more than 30 Armenian civilians were killed by the demonstrators, including two women who were thrown from a high building and one pregnant woman who was burned alive. It was reported that police and soldiers took no steps to protect the Armenians;

(b) Furthermore, it was reported that on 31 October 1989, at the PL. 350/5 Strict Regime Camp (ITK) in Pietchorsk region, Komi Autonomous Soviet Socialist Republic, the prisoner Pavel Samsonov, aged 22, died allegedly after having been beaten by the captain on duty when he rejected the captain's homosexual advances. The prison doctors reportedly stated that pneumonia was the cause of his death.

506. On 12 December 1990, a letter was sent to the Government of the Union of Soviet Socialist Republics, transmitting allegations that killings of unarmed Armenians, both within the borders of Armenia and in the region of Nagorno-Karabakh, allegedly by members of the Soviet armed forces and also by Azeris who allegedly acted under the control of the Soviet army, continued to occur throughout the year 1990. Specific cases were reported as follows:

(a) On 27 May 1990, in Yerevan, Armenia, six persons were shot dead by Soviet troops which opened fire at demonstrators;

(b) On 6 September 1990, in the village of Khoznavar, Goris region, Armenia, Soviet soldiers entered the village together with Azeris in their tanks and killed two shepherds, Khachik and Aram Alaverdian, and took 163 head of cattle;

(c) On 16 September 1990, on the road to the village of Karashen, Goris region, Armenia, Soviet soldiers attacked and killed Varteges Ohanian who was transporting agricultural produce in his truck;

(d) On 12 October 1990, after midnight, in the village of Khenatsagh, Goris region, Armenia, two shepherds, A. Hagopjanian and Y. Mirzoyan, were killed by soldiers, and their 1,400 head of cattle were stolen;

(e) On 22 October 1990, in the village of Leninavan, Martakert region, Karabakh, Soviet soldiers killed a man named Marten while looting.

507. On 14 January 1991, a cable was sent to the Government of the Union of Soviet Socialist Republics transmitting information received that on 13 January 1991, at least 13 civilian demonstrators were killed and over 100 of them injured when Soviet troops seized the broadcast facilities in Vilnius. It was alleged that paratroopers backed by tanks opened fire at unarmed crowds gathered about the broadcasting centre.

508. In view of the continuing tense situation in Lithuania, the Special Rapporteur appealed to the Government to take such measures as to ensure that there would be no further loss of life and that the right to life of the individual as provided for under article 6 of the International Covenant on Civil and Political Rights was fully guaranteed and protected. He requested information from the Government on the above-mentioned incident and also on the measures taken to prevent further deaths.

509. On 23 January 1990, a letter was received from the Government of the Union of Soviet Socialist Republics, in addition to its previous reply dated 8 January 1990 (see E/CN.4/1990/22, paras. 425 and 426) to the Special Rapporteur's cable of 1 December 1989 concerning the case of A. Zapevalov (see E/CN.4/1990/22, paras. 422 and 423).

510. The letter stated that the legislation in force in the USSR provides that no person may be executed except by the sentence of a court of law.

511. It was stated that the rights of the defendant in cases of this kind were adequately protected, as article 22 of the Fundamentals of Criminal Procedure of USSR and the Codes of Criminal Procedure of the Union's Republics provide for the right to defence counsel in cases involving persons accused of crimes punishable by the death penalty. This right is exercised from the moment the accused is told the preliminary investigation is over, at which time all the records of the case are presented to him for review. This ensures the participation of defence counsel in judicial proceedings (see, e.g. article 49, para. 5 of the Code of Criminal Procedure of the Russian SSR). It was stated also that after the judgement has been rendered, the defendant, or his or her defence counsel, or legal representative has the right to appeal. Such appeal stays the execution of the judgement. It was stated further that only the judgements rendered by the Supreme Court of the USSR and the Supreme Courts of the Union's Republics are not subject to appeal. Such judgements may, however, be reviewed at the Union level or at Republic level. In the first case, the Prosecutor General of the USSR, the Chairman of the Supreme Court of the USSR or one of their deputies may file a protest with the Plenum of the Supreme Court of the USSR. In the second case, the Prosecutor of a Union Republic, the Chairman of the Supreme Court of a Union Republic or one of their deputies may file a protest with the Plenum of the Supreme Court of a Union Republic. In addition, defence counsel of the convicted person may petition the above-mentioned bodies. It was stated also that after a death sentence has taken legal effect, the convicted person has the right to address

a petition for pardon, to a State body, namely the Presidium of the Supreme Soviet of the USSR or the Presidium of the Supreme Soviet of a Union Republic, depending on the respective jurisdiction. This petition is subject to mandatory examination.

512. It was stated that the entire list of rights of the defendant as guaranteed by the law had been given to the convict, A. Zapevalov.

513. On 9 October 1990, a reply was received from the Government of the Union of Soviet Socialist Republics to the Special Rapporteur's letter of 26 July 1990, transmitting information on the following cases:

(a) With regard to the 30 January 1990 incidents alleged to have occurred in Azeri, Baku, according to the Procurator's Office of the Union of Soviet Socialist Republics, the incidents did not take place;

(b) With regard to the 31 October 1989 death in custody of Pavel Samsonov, aged 22, in the Corrective Labour Establishment (ITU), criminal proceedings were instituted and the investigation was under way.

United States of America

514. On 3 May 1990, the Special Rapporteur sent a cable to the Government of the United States of America referring to his previous cable of 9 November 1989 concerning the case of Dalton Prejean to which he had received a reply from the Government dated 24 November 1989 (see E/CN.4/1990/22, paras. 428 to 433). It was alleged that according to new information, Dalton Prejean, who had been found to be mentally retarded and had had a history of mental illness in addition to the fact that he was aged 17 when he had committed the murder, was scheduled to be executed on 15 May 1990.

515. Although he was very well aware of the position of the Government as explained in the above-mentioned reply, the Special Rapporteur recalled the relevant norms adopted by United Nations bodies. In this connection, he referred, in addition, to article 6 of the International Covenant on Civil and Political Rights and to Economic and Social Council resolution 1984/50, already quoted in his previous cable, and to Economic and Social Council resolution 1989/64 of 24 May 1989 entitled "Implementation of the safeguards guaranteeing protection of the rights of those facing the death penalty". In paragraph 1, the resolution "Recommends that Member States take steps to implement the safeguards and strengthen further the protection of the rights of those facing the death penalty, where applicable, by: ... (d) Eliminating the death penalty for persons suffering from mental retardation or extremely limited mental competence, whether at the stage of sentence or execution ..."

516. The Special Rapporteur appealed to the Government to make every possible effort to find a way to spare Dalton Prejean's life.

517. On 17 December 1990, a cable was sent to the Government of the United States of America concerning the case of Christopher Burger who was scheduled to be executed on 18 December 1990. According to the information, Christopher Burger was aged 17 when committing the offence for which he was sentenced to death, and in addition was found, in August 1989, to be suffering from long-term mental illness and organic brain impairment.

518. Although the Special Rapporteur was aware of the fact that the minimum age at which the death penalty may be imposed in the State of Georgia is 17, he appealed to the Government to make every possible effort to spare the life of Christopher Burger. In this connection, the Special Rapporteur referred to relevant international instruments and decisions adopted by the United Nations, particularly article 6, paragraph 5 of the International Covenant on Civil and Political Rights which states that "the death sentence shall not be imposed for crimes committed by persons below eighteen years of age...", and to Economic and Social Council resolution 1984/50 of 25 May 1984 entitled "Safeguards guaranteeing protection of the rights of those facing the death penalty". In paragraph 3, the resolution recommended that "persons below 18 years of age at the time of the commission of the crime shall not be sentenced to death, nor shall the death sentence be carried out on ... persons who have become insane". The Special Rapporteur referred also to Economic and Social Council resolution 1989/64 of 24 May 1989, entitled "Implementation of the safeguards guaranteeing protection of the rights of those facing the death penalty" which recommends in paragraph 1 that "Member States take steps to implement the safeguards and strengthen further the protection of the rights of those facing the death penalty, where applicable, by ... (d) Eliminating the death penalty for persons suffering from mental retardation or extremely limited mental competence, whether at the stage of sentence or execution ..."

519. On 16 May 1990, a reply was received from the Government of the United States of America to the Special Rapporteur's above-mentioned cable of 3 May 1990 stating that the imposition of the death penalty in the United States was neither summary nor arbitrary, and conformed to all rules of international law binding on the United States and that the case of Mr. Prejean was no exception. It was stated that he was duly convicted in a jury trial, and exercised his extensive rights to appeal his conviction and sentence in both State and Federal courts and that in those proceedings, Mr. Prejean would have been able to raise relevant defences and introduce mitigating factors, including retardation, mental illness and youth.

520. It was further stated that the power to commute the sentence of Mr. Prejean lay not with the Federal Government but with the Governor of the State of Louisiana.

Venezuela

521. On 11 July 1990, a letter was sent to the Government of Venezuela transmitting allegations concerning the events in February and March 1989 during which several persons died, in addition to those already transmitted to the Government of Venezuela by the Special Rapporteur's letter of 25 April 1989. It was further alleged that one year after the events, in only four cases charges were brought against those held responsible for the deaths:

(a) On 1 March 1989, in Palo Verde, Petare, five persons were killed by soldiers. According to the allegations, the soldiers and members of the metropolitan police shot from building roofs into the crowd. The names of the victims were given as follows: Martin José Vásquez, aged 37; José Quintana, aged 27; Carmen Izquiel Ochoa, aged 14; Yanly Chacón, aged 19; and Roberto Segundo Valbuena, aged 19;

(b) On 1 March 1989, in Palo Verde, Petare, Ruben Jávier Rojas Camps, aged 27, and Joel Marín Candoso, aged 15, were killed by soldiers;

(c) On 28 February 1989, in Maracay, Juan Carlos Celis Peris, an agronomy student, was killed by the police when he took part in a peaceful demonstration organized by students;

(d) On 28 February 1989, in Maracay, José Chinquín Rodríguez was killed by soldiers;

(e) On 27 February 1989, in the Central Park, Yúliman Reyes, a student, was killed by the police;

(f) On 28 February 1989, in El Valle, Miguel José Rondón Bermúdez, aged 25, a mechanic, was killed by soldiers when he was repairing his car during the curfew hours;

(g) On 28 February 1989, in El Valle, José Gerónimo Valero, aged 22, was killed by the police when he and his brother were walking past the police station of Nueva Granada and La Bandera;

(h) On 28 February 1989, in El Valle, Jesús Zenaido Quijado, aged 25, was killed by soldiers during raids carried out in his area;

(i) On 28 February 1989, in Antimano, Héctor Daniel Ortega, aged 24, a student, was killed by members of the metropolitan police;

(j) On 28 February 1989, José del Carmen Pirela León, aged 16, was killed by the police when he was shopping with a friend;

(k) On 28 February 1989, in Petare, Pedro García Pereira, aged 26, was killed by the metropolitan police;

(l) On 2 March 1989, Juan A. Franco Ramos, aged 22, was shot by the metropolitan police near his home;

(m) On 1 March 1989, Pedro Guía Laya, aged 26, was killed by soldiers when he was outside his home during the curfew hours;

(n) On 18 March 1989, Juan Rojas Gámez, aged 19, was killed by the police;

(o) On 2 March 1989, in El Guarataro, Wolfgang Waldemar Quintana was killed by soldiers who shot through the windows of Quintana's apartment.

522. On 10 February 1990 a reply was received from the Government of Venezuela to the Special Rapporteur's letter of 11 December 1989 (see E/CN.4/1990/22, para. 439) stating that a number of the cases referred to by the Special Rapporteur were closely related since they originated in the events that disrupted public order in Venezuela between 27 February and 6 March 1989.

523. It was also stated that special consideration should be given to the situations arising out of the conduct of the police and the armed forces during this period, on the basis of information provided by the Fiscal

General, and in addition to the contents of the Government's reply of 15 August 1989 to the Special Rapporteur (see E/CN.4/1990/22, paras. 441 and 442).

524. The reply explained that the events referred to involved a serious disruption of public order and were due to a number of political and social factors as well as an exacerbation of the prevailing economic difficulties. The suspension of a number of consitutional guarantees and the intervention of the armed forces were necessary to restore order. The excesses committed were regrettable, and the Fiscal General had instructed members of his staff to initiate the appropriate criminal proceedings and to intervene actively until a final and enforcible judgement was handed down.

525. Various difficulties confronted the office of the Fiscal General in its efforts to speed up the respective proceedings in order to secure fair decisions. For example, in the exercise of their investigative functions, the police forces had opened files on each of the cases that arose during this period and referred them to the military courts. In view of this situation, the office of the Fiscal General contacted the Judicial Police Technical Corps to point out that it was the responsibility of the judicial authorities, not administrative bodies, to decide which organ was competent to try cases, and to request that such actions should not recur in the future.

526. The referral of all the cases to the military system of justice made it necessary for the office of the Fiscal General to intervene actively to ensure that the criminal cases in which civilian police officials were suspects were transferred to ordinary jurisdiction; this process required a considerable amount of time.

527. Consequently, only a few cases were being dealt with under ordinary jurisdiction. Progress was made in a number of them as the investigations concerning the persons listed below would indicate:

(a) Osquelis Campo: The 43rd Criminal Court of First Instance of the Judicial District of the Federal District and State of Miranda issued an arrest warrant against officials of the metropolitan police;

(b) Yúlimar Reyes: The presumed liability of officials of the metropolitan police was also established and charges were formulated against them in the 43rd Criminal Court of First Instance of the Judicial District of the Federal District and State of Miranda;

(c) Eleazar Mavares: As there was sufficient evidence to justify the presumption of liability on the part of police officials, the prosecution officals charged members of the metropolitan police;

(d) Luis Manuel Colmenares: The existence of evidence incriminating officials of the metropolitan police was ascertained. Criminal proceedings were instituted in the 42nd Criminal Court of First Instance of the Judicial District of the Federal District and State of Miranda;

(e) Armando Antonio Canelone: Criminal proceedings were instituted against officials of the metropolitan police.

528. In other cases, it has also been difficult to establish any liability because the aggrieved parties were in the vicinity of armed clashes involving both members of the military and citizens who were taking part in the protest and using firearms.

529. With regard to the situation that occurred in Venezuela on 27 February and the following days, it should be reiterated that although a social explosion which took the form of looting of a number of businesses occurred initially, this gradually assumed a different complexion in that property was destroyed, citizens were assaulted and, finally, groups of armed citizens fired on the members of State security bodies, killing a number of military and police officials.

530. In a number of cases the action taken by the intervening forces was disproportionate, but there was a combination of factors that cannot be analysed separately. In any case, citizens could not be left undefended vis-à-vis the unlawful conduct of others who were destroying their property and threatening their integrity.

531. The office of the Fiscal General did a great deal of work with a view to accelerating ongoing proceedings so that the responsibilities for the events that occurred might be established. Regular meetings were held with the families of persons who died and with non-governmental organizations working in the field of human rights, for the purpose of co-operating in order to secure justice.

532. The reply further referred to the events in Amparo, where 14 persons died on 29 October 1988. After the Standing Military Court of San Cristóbal issued arrest warrants against the 19 officials who had participated in these acts, the Military Court of the Republic of Venezuela annulled the warrants, arguing that the former court had no jurisdiction to issue them and ordering the release of the persons accused.

533. Against this decision, the President of the Republic instructed the military prosecutor that the appropriate remedies should be exhausted; he therefore announced an appeal to vacate, that appeal being duly formalized.

534. The appeal to vacate was upheld on 5 December 1989 by the Criminal Court of Appeal of the Supreme Court of Justice, which stated that the Standing Military Court was in effect competent to issue the arrest warrants. Consequently, it ordered that the file should be referred to the Military Court so that it might pass judgement strictly in line with the precedent established by the Supreme Court.

535. However, the Military Court had not ruled in accordance with the precedent set by the Supreme Court of Justice, and the office of the Fiscal General therefore pressed for the continuation of the case.

536. The reply further stated that the stage currently reached in the cases mentioned in the report of the Special Rapporteur (E/CN.4/1990/22, para. 439) was as follows:

(a) Freddy Manuel Dugarte: No new evidence has been produced since 1988 and the investigation therefore remained open;

(b) José Luis Palomares: This person died on 19 September 1987 in a military academy. On 12 January 1989, the Second Standing Military Court of First Instance of Maracaibo declared the investigation closed, since there was no case, considering that the events which led to the death of this citizen were accidental and therefore not punishable. The judgement states that the available evidence indicated that death was caused by moderate to serious dehydration occurring on Monday, 7 September 1987;

(c) Martín Soto Mijares: The information was currently before the 40th Criminal Court of First Instance of the Judicial District of the Federal District and State of Miranda against three police officials;

(d) Félix Humberto Peña Tadino: This person died on 9 June 1987, as a result of gunshot wounds caused by persons alleged to be officials of the Judicial Police Technical Corps, attached to the BAE group. On 24 August 1989 the ninth prosecution official of the office of the Fiscal General requested the appropriate information from the 4th Criminal Court of First Instance of the Judicial District of the Federal District and State of Miranda;

(e) Luis Miguel Villanueva Ibarra: This person died on 15 December 1987, as a result of gunshot wounds caused by persons alleged to be officials attached to DISIP. The Supreme Court of Justice has not ruled on the appeal on facts brought by the eighth prosecution official of the prosecutor's department of the Judicial District of Aragua State on 27 October 1988.

537. On 15 January 1991, a letter was received from the Government of Venezuela in reply to the Special Rapporteur's letter dated 11 July 1990 concerning the incidents which occurred in the country on 27 and 28 February and 6 March 1989. The Government noted that its detailed commentary on the incidents had already been contained in its note dated 10 February 1990. As regards concrete cases mentioned by the Special Rapporteur, the following information was provided:

(a) José del Carmen Pirela: The case was pending, in its initial stage, before a court in the capital;

(b) Yúlimar Reyes: On 11 April 1989, a warrant of arrest was issued for policeman Néstor Eduardo Camelón Blanco, on a charge of qualified homicide. A court later found him guilty of homicide without mitigating factors. But the prosecutor's office appealed against the court's judgement on the grounds that the official had been charged with qualified homicide;

(c) Eleazar Mavaras: On 23 February 1990, a warrant of arrest was issued for Alexis Torres Flores, on charges of qualified homicide and unwarranted use of a firearm. Warrants of arrest were also issued for Miguel Angel Andieta, Eliades Alejandro Blanco, Omar Alexis Rodríguez, Luis Enrique Arandia, José Delfín Acero and Neslón Alfredo Altuve, for their part in committing the aforementioned offences;

(d) Wolfgang Waldemar Quintana: The case was pending, at its initial stage, before a court in the capital;

(e) As regards the cases of Juan Carlos Celis Peris, José Chinquin Rodríguez, Pedro García Pereira and Miguel José Rondón Bermúdez, the Ministry has so far not been informed of any complaint being filed;

(f) The case of Héctor Daniel Ortega is under penal review with a view to bringing it before a court;

(g) As regards the cases of Martín José Vásquez, José Quintana, Carmen Izquel Ochoa, Yanly Chacón, Roberto Segundo Valbuena, Rubén Jávier Rojas, Joel Marín Candoso, José Gerónimo Valero, Jesús Zenaido Quijado, Juan Franco Ramos, Pedro Guialya and Rojas Gómez, according to the fiscal these names appear on the list of persons who died and were buried in common graves. The exhumation of the bodies is now under way in order to try to establish the causes of death and to provide confirmation of death to the relatives;

(h) As regards the case known as the "Amparo case" (see para. 522 ff. above) a note dated 12 December 1990 was received providing a summary of developments prepared by the office of the Fiscal General of the Republic. The various stages of the inquiry and hearings in the case are described in detail. Following a decision by the Supreme Court, a military court on 6 August 1990 confirmed the arrest warrants issued against 19 members of the security forces, rescinded the arrest warrants issued against civilians José Antonio Arias and Wolmer Gregorio Pinilla, and maintained open the investigation into the offences under articles 316 and 317 of the Code of Military Justice. The affair was transmitted on 17 August 1990 to the permanent council of war of the town of San Cristóbal for execution of the warrants, and by 19 September 1990 15 of them had been served.

Yugoslavia

538. On 26 July 1990, a letter was sent to the Government of Yugoslavia transmitting allegations that during the preceding year, in Kosovo province, security forces resorted to indiscriminate and excessive force in order to control demonstrations by ethnic Albanians, including opening fire on demonstrators without warning.

539. Incidents were described as follows:

(a) On 30 January 1990, in Malisheve, a village in Kosovo province, the police fired shots indiscriminately and without warning in the village square killing several unarmed villagers. Among the victims was Husni Mazreku, aged 17, who was killed when shots were fired through the glass panes of his father's village store;

(b) On 27 January 1990, in the village of Brestovac, commune of Orahovac, the police fired without warning, killing four persons. Tear gas was allegedly used only after the shooting;

(c) On 27 January 1990, in Peć, Fatmir Ukaj, aged 17, was shot dead by a sniper from a highrise building. There were reportedly no demonstrations at that time in that part of the town;

(d) On 27 January 1990, in Ferizaj, Uroševac, Redžhep Aliu was shot dead while working in his garage by a member of the Serbian Republic Reserve Police Units;

(e) On 30 January 1990, near Vucitrn, two persons were shot dead by policemen who indiscriminately fired without warning at people walking in the streets. The victims were Sadri Maksuti, aged 53, and Sadik Malaj, aged 23;

(f) On 31 January 1990, in Glogovac, two persons were killed when the police fired at an assembly of people, reportedly without any cause or warning;

(g) On 28 January 1990, in Suva Reka, Milot Kryeziu, aged 9, was killed by the police;

(h) On 31 January 1990, in Stimlje, Bekim Sejdin, aged 15, was killed during a police action aimed at dispersing a crowd;

(i) On 1 February 1990, in the village of Lubce, commune of Podujevo, Ylfete Hummoli, aged 19, was killed, allegedly by the police;

(j) On 1 February 1990, in Podujeva, Fadilj Talla, aged 25, was killed by bullets fired from a tank belonging to the Yugoslav People's Army Units.

540. In addition to the foregoing, a list of persons who were alleged to have been killed in Kosovo in January and February 1990 was given as follows: Qamil Morina (19), Loxhe, Paje; Ragip Hasanmetaj (23), Strelc, Decan; Sadik Malaj (23), Stanovc, Vucitrn; Sadri Maksutaj (48), Popove, Podujeve; Hysni Mazreku (17), Malisheve; Reshat Ymeri (21), Gjilan; Enver Morina (23), Cikatove, Glogovac; Sahit Shala (25), Krajkove, Glogovac; Xhevat Hoxha (24), Gjakove; Fatmin Kerleshi (24), Gjakove; Gani Daci (22), Nabenqjan, Peje; Ali Hysvukaj (19), Cisk, Peje; Agron Fetann (24), Celinc, Orahovc; Halim Hoti (29), Krusha e Madhe, Orahovc; Nesim Elshani (28), Nogavc, Orahovc; Hilmi Krasnigi (41), Hoca e Vogel, Orahovc; Xhevdet Breznica (22), Dobraje, Libjan; Ali Kryezin (28), Dubavec, Malisheve; Shani Morina (22), Citakov, Glogovac; Islam Morina (31), Topanice, Kamenice; Arsim Abdullahn (17), Mazrek, Malisheve; Ali Tafa (34), Cannaleve, Shtimle; Bedri Morina (23), Cikatove, Glogovac; Ahmet Khafqi (54), Dragash; Rasim Masligaj (47), Beleg, Decan; Syle Ukhaxhaj (49), Carrabreg, Decan; Osman Vokshi (66), Peje, Peje; Selman Vojvoda (22), Llaushe, Serbice.

541. On 10 December 1990, a letter was sent to the Government of Yugoslavia transmitting allegations that during the past year, in the Kosovo region, several persons died as a result of police attacks including indiscriminate shooting at unarmed ethnic Albanian civilians.

542. In addition to those already communicated to the Government, a further incident was described as follows: on Friday, 13 September 1990, some time after 3.00 a.m. in the village of Pallatë, district of Podujero, Kosovo, Bessim Latifi, aged 22 and Skender Moncli, aged 23 were killed when police surrounded the village with over 50 police cars and vehicles with polarized windows and indiscriminately fired at houses.

543. On 5 September 1990, a reply was received from the Government of Yugoslavia to the Special Rapporteur's letter of 30 October 1989 (E/CN.4/1990/22, paras. 444-446) concerning allegations that on 27 and 28 March 1989 and during the first days of April, several hundred persons of Albanian backgroud were killed by security forces during demonstrations in several towns of Kosovo, particularly in Zur, Malisevo and Gnjilane. The letter stated that the extremely aggressive and destructive demonstrators, all Albanian nationalists and separatists, brutally attacked security forces with stones, knives, inflammable objects and, finally, firearms. As a consequence, two police officers were killed by demonstrators.

544. The letter stated that faced with such extreme violence which threatened lives and property in the province, the security officers showed restraint and undertook only defensive measures to break up the demonstrators. It was stated that the main aim was to defend human lives and property and to re-establish public order.

545. The letter further stated than when these measures proved ineffective, the police forces resorted to firearms, but only in the most critical situations. These clashes of 27 and 28 March resulted in the death of 22 demonstrators, with 10 dead at the scene and two others who succumbed to wounds in or on their way to medical institutions. It was stated that police and investigative officers took all possible measures to carry out proper and on-site investigation of the deaths. The investigations established the following:

(a) Zur, commune of Prizren: Djemsit Badalaj, aged 25, a resident of Zur, Prizren; Djulbehar Badalaj, aged 23, a farmer, wounded in Zur, died in the general hospital of Pristina; Hajrim Badalaj, aged 13, a pupil, wounded in Zur, died on 10 April in surgical clinic of Pristina. These deaths occurred on 28 March 1989 when 600 pupils gathered in the courtyard of the primary school, which had been closed as a precaution, and refused to return home as warned. Villagers joined the pupils, and despite police orders to disband, the demonstrators attacked police vehicles carrying officers and attacked police with Molotov cocktails and firearms;

(b) Gnjilane: On 27 March 1989, at around 3.00 p.m., Agim Rusiti, aged 22, from Draganac, Gnjilanc, was wounded when some 10,000 demonstrators gathered in three parts of the town injured 11 police officers, destroyed buses and shop windows and used firearms against police and a police helicopter. Agim Rusiti died on 29 March in the hospital of Pristina;

(c) Pristina, Marsala Tita Street: Vetun Salja, aged 21, a medical student, was wounded and died in Pristina Surgical Clinic; Ismet Krasnici, aged 32, a carpenter, died on the spot near "Lab" mosque; Sevdat Berisa, aged 28, an employee of "Elektroprivreda Kosovo" died on the spot in L. Ribar Street; Sukrije Obrtinca, aged 16, a student, died on the spot in L. Ribar Street; Mustafa Veseljaj, aged 23, a theology student, died on the spot in Jablanicka Street. His body was discovered on 28 March in a house cellar. These deaths occurred when demonstrators, mostly young people, persisted in their attempts to proceed to the city centre, threw at police stones and Molotov cocktails, attacked police vehicles and a bulldozer, set petrol on fire, and finally used firearms;

(d) Tita Miltrovica: Bedri Hasanaj, aged 21, wounded near the bus terminal, died in the general hospital of Titora Mitrovica; Behar Sumnici, aged 50, died on the spot, hit by a stray bullet; Hilmi Kajtazi, aged 34, was wounded near the bus terminal and died in the general hospital of Titova Mitronica; Hakif Bislimi, aged 33, died on the spot near the bus terminal; Ramadan Zeceri was wounded near the bus terminal and died in the general hospital. These deaths occurred when a group of women and children were joined by a larger group in the "Tammik" town area who blocked roads with burning tyres, attacked police with stones and other objects and, finally, with firearms. Anti-riot devices were used to discourage demonstrators but the demonstrators fired back killing one police officer;

(e) Dusanovo: Muharem Kabasi, aged 18, a student, wounded in Dusanovo, died on route to the hospital; Afrim Bitici, aged 14, a student, wounded in Dusanovo, died in the Prizren hospital;

(f) Decani: Ismet Coraj, aged 21, a warehouse worker, died on the spot in Marsala Tita Street; Sali Haderdjonaj, aged 19, a student, wounded in Marsala Tita Street, died on route to hospital; Agim Kukljeci, aged 46, a driver with Kosovotrans, wounded while driving his bus, died on 8 April in Pristina hospital. The investigation found that he was struck by a stray bullet.

546. With regard to cases transmitted by the Special Rapporteur on 30 October 1989 in Malisevo, (see E/CN.4/1990/22, para. 444 (b)), it was stated that the demonstrations did not result in any casualties.

547. On 27 November 1990, a reply was received from the Government of Yugoslavia to the Special Rapporteur's letter of 26 July 1990 concerning allegations of use of indiscriminate and excessive force by security forces to control demonstrations by ethnic Albanians in Kosovo province.

548. The letter stated that according to an official investigation by the Federal Secretariat for Internal Affairs to the Federal Executive Council, in cases where security forces had resorted to the use of firearms it was under conditions and in a manner stipulated by law and within the limits of their legal competence, and that they resorted to firearms only in case of extreme violence and in legitimate self-defence. The letter further stated that the objective of the separatists was to impede and prevent the functioning of legal authorities, regular economic production, traffic and communication by means of persistent attacks on the lives and property of non-Albanian citizens and by attacking even with firearms, police officers, who tried to secure the full legal, personal and property security and safety of all citizens in Kosovo.

549. According to the letter, police showed utmost restraint and used firearms only in extreme necessity and in response to shots from behind barricades or at night, and it was in this context that 28 persons were killed. It was stated that the internal affairs and court officials of Kosovo and Metohija did their utmost to conduct investigations, that in 22 out of the 28 cases of death the authorities were given permission by the families to perform autopsies, and that the Province Secretariat for Internal Affairs of Kosovo and Metohija submitted to the district attorney a report on the circumstances of each death and a report on the investigation conducted by the investigating judge.

550. With regard to the incidents referred to in the letter of the Special Rapporteur, it was stated that allegations of the incidents in Malisfeve and Brestovac (see para. 539 (a) and (b) above) did not hold true. It was stated that on 30 January 1990, in Malisevo, Kosovo province, the police clashed with over 2,000 separatists and not with unarmed villagers, and that only after prior warnings to disperse were issued and tear-gas was used, and also after the crowd had fired, wounding a police officer, did the police respond with fire, causing the death of Husni Mazreku and Ali Kryeziu.

551. In regard to the incidents in Brestovac, Orahovac, it was stated that on 27 January 1990, 500 separatists throwing stones and flammable objects clashed with police. The police issued warnings, used tear-gas, and only when shots were fired from the crowd, did police return fire killing four persons, Haljim Maljusa Hoti, aged 30; Hiljmi Redze Krasnici, aged 41; Nesim Dzemalja Eljsani, aged 28; Agron Uka Petah, aged 23.

552. With regard to the incident in Pec (see para. 539 (c) above) it was further stated that on 27 February in Pec, violence broke out simultaneously in different places, particularly in the centre where police were shot at from a crowd of about 1,000 people. In this context, Fatmir Hazir Ukaj, aged 17, was wounded and died in the hospital of Pec. Other deaths reported in this clash were as follows: Camil Sulja Morina, aged 19; Gani Malj Daci, aged 21; Ali Niman Hisvukaj, aged 19; and Osman Voksi, aged 56.

553. In regard to the incident in Ferizaj (see para. 539 (d) above), it was stated that Redzep Beran (not Redzep Aliu, as described in the Special Rapporteur's communication) was shot dead in front of his garage, and was an innocent victim of a clash between police and rioters.

554. Other persons stated to have been killed in similar clashes were as follows: Sahit Ibise Salja, aged 25, in Glogovac (para. 539 (f)); Enver Bajriz Morina, aged 23, in Glogovac; Sani Ibise Murina, aged 28, in Glogovac; Selman Vojvoda, aged 22, in Srbica; Ragip Brahim Hasanmetaj, aged 22, in Decane; Sulj Harir Ukhadzaj, aged 49, in Decane; Dzevat Ismet Hodzaj, aged 28, in Djakovica; Fatmir Mazluma Krljesi, aged 24, in Djakovica; Ali Jetulah Tafa, aged 35, in Stimlja; Dzevdet Hasana Bresnica, aged 22, in Lipljan; Bekim Ruzdi Sejdiu, aged 15, in Kosare; Resat Zecir Imeri, aged 21, in Gnjilane.

555. In regard to the incident near Vucitrn (see para. 539 (e) above), it was stated that Sadri Maksut and Sadik Malaj were not killed while they were walking in the streets but in the context of riots on 30 January 1990 on the main street of Pristina - Titova Mitrovica - when more than 1,000 separatists set up barricades and refused to disperse after police warnings and tear-gas were used. The demonstrators opened fire on the police and only then did the police return the fire.

556. With regard to the incidents in Stimlja in Malisevo (see para. 539 (f) and (h) above), it was also stated that on 31 January 1990 the situations were similar in the village of Stimlja, where 800 separatists set up barricades, and near the village of Glogovac where 2,000 demonstrators besieged the railway tracks. With regard to the incident on 28 January 1990 in Suva Reka (para. 539 (g)), it was further stated that although it was a regular practice for Albanian separatists to use women and children for cover, it was not Milot Kryaziu, aged 9 who was killed but Melit (Zejnela) Kryeziu, aged 32.

557. With regard to the incident along the Podujevo-Pristina road (see para. 539 (i) and (j) above) on 1 February 1990, it was stated that separatists had set up barricades and threw Molotov cocktails to prevent the passage of a police convoy. In this clash Ylfete Humoli and Fadilj Talla were shot dead.

558. In regard to the other deaths referred to in the Special Rapporteur's letter, the reply stated that it was established that Bedri Morina, aged 23, from Cikatova and a philosophy student in Pristina, was not killed. It was also stated that persons with the names of Arsim Abdullahn from Mazreke, Ahmet Khafqi from Dragas and Rasim Masligaj from Beleg did not exist.

559. Islam Morina from Topanica was said not to have been shot in riots but when the driver of a car in which he was riding ran into a police patrol at high speed outside Kosovo on 5 February 1990. Criminal charges were brought against the driver for attacking police officers.

560. On 15 January 1991, a reply was received from the Government of Yugoslavia to the Special Rapporteur's letter of 10 December 1990 stating that, as already explained in the Government's letter of 27 November 1990, the well-organized and aggressive Albanian secessionist movement in Kosovo was the most drastic example of minority right abuses for the purpose of secession, unprecedented in Europe in the post-war period. It was also stated that in the face of such an aggressive separatist drive, also having terrorist features, it was necessary to take all measures required by law with a view to defending the territorial integrity of Serbia and the unity of Yugoslavia as a whole and that the introduction of these measures resulted in losses of human life, as was the case with Besim Latifi and Skender Monolli.

561. According to the reply, in order to discover the location of smuggled arms and ammunition, the police sealed off a few residential buildings and other facilities in the village of Palatna on 13 September 1990 at 5.30 a.m. It was stated that the persons trapped in the buildings and those hiding in the adjoining woods put up strong resistance until 11.10 a.m. and that shots were fired at the police and their vehicles. It was stated that despite the police warning, the shooting intensified and a policeman was seriously wounded by the shots fired by Besim Latifi; the police fired back and Latifi died instantly. It was also stated that while one of the buildings was being searched, Skender Monolli opened fire on the policemen standing by their car, gravely injuring a police officer; the police fired back at him, he was wounded, and later died in a hospital at Pristina.

562. After the search had been completed, the following items were found: four army rifles, four guns, a large supply of ammunition for guns and rifles, slow-burning dynamite sticks and a radio transmitter.

563. It was stated that the investigation on the scene was conducted by two teams, including examining magistrates and public prosecutors from Pristina; that on the basis of the very thorough investigation it was established that the police had used firearms in accordance with its legal authority (under article 44, para. 1, subpara. 5 of the Law of the Republic of Serbia on Internal Affairs and article 6, para. 1, subpara. 3 of the rules for the use of firearms), in order to deter direct attacks endangering life, and only against persons firing at and wounding police officers. The reply concluded

by stating that the allegations contained in the Special Rapporteur's letter of 10 December 1990 that the police fired indiscriminately at unarmed Albanian civilians were unfounded.

564. The reply also referred to the Law on Internal Affairs Relating to the Use of Firearms. In carrying out their duties authorized internal affairs officers resort to firearms and other means of coercion in compliance with the Law on Internal Affairs of the Socialist Autonomous Province (SAP) of Kosovo (Official Gazette, SAP of Kosovo, No. 46/87). Under article 63 of the above law, officers are authorized to resort to the use of firearms if there are no other means of protecting human lives or to counter an attack endangering the lives of officers on duty. It was further stated that, under article 68, an officer on duty, before resorting to firearms or other means of force, is obliged to warn the person in question beforehand of his intentions providing that the circumstances allow for it.

Zaire

565. On 26 July 1990, a letter was sent to the Government of Zaire transmitting allegations that in April and May 1990, several students and politial activists were shot dead by Government forces in a summary manner for their activities in support of political reforms.

566. The following incidents were described:

(a) On 30 April 1990, in Kinshasa, several members of the Union for Democracy and Social Progress (UDPS) were killed by soldiers of the Division spéciale présidentielle (DSP) using guns and bayonets to disperse a gathering of the Union. Among those killed were Mwamba Denis and Bwala Bwala;

(b) During the night of 11 May 1990, in Shaba region, several students were shot dead or killed with bayonets and machetes at the campus of Lubumbashi University, by soldiers of the DSP. According to a source, the number of victims reached over 100. The killings reportedly took place after some students had beaten several of their colleagues who were suspected of being informers for the security services.

567. At the time of preparation of the present report, no reply had been received from the Government of Zaire.

III. LEGAL AND ANALYTICAL FRAMEWORK WITHIN WHICH THE MANDATE OF THE SPECIAL RAPPORTEUR IS IMPLEMENTED

568. The mandate of the Special Rapporteur was established by Economic and Social Council resolution 1982/35, the first two paragraphs of which define its normative basis: the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. These instruments, it is recalled, guarantee the right to life, liberty and security of the person and seek to ensure that every human being has the right to life, that such right shall be protected by law and that no one shall be deprived arbitrarily of his or her life.

569. Relevant provisions of the Covenant include article 4 concerning a state of emergency, article 7 concerning torture or cruel, inhuman or degrading treatment or punishment, article 9 concerning the right to liberty and security of person, article 10 concerning the treatment of persons deprived of their liberty, article 14 concerning the right of the person to procedural and substantive due process of law and article 15 stating the principle of nulla poena sine lege. These provisions are considered against the background of article 6 of the Covenant and article 3 of the Universal Declaration, both of which affirm the inherent right of every human being to life. The mandate of the Special Rapporteur has to be understood within the legal context of the preceding provisions as well as within the factual context prevailing in a particular country.

570. In addition, the Special Rapporteur is guided by a number of other standards promulgated by United Nations organs and bodies. These are: the Standard Minimum Rules for the Treatment of Prisoners (Economic and Social Council resolution 663C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977), the Declaration on the Protection of All Persons from Being subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (General Assembly resolution 3452 (XXX) of 9 December 1975); the Code of Conduct for Law Enforcement Officials (General Assembly resolution 34/169 of 17 December 1979); the Safeguards guaranteeing protection of the rights of those facing the death penalty (Economic and Social Council resolution 1984/50 of 25 May 1984); the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (General Assembly resolution 39/46 of 10 December 1984); the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (General Assembly resolution 43/173 of 9 December 1988); the Effective prevention and investigation of extra-legal, arbitrary and summary executions (Economic and Social Council resolution 1989/65 of 24 May 1989); and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held in Havana, Cuba, from 27 August to 7 September 1990; the text of these Principles is attached as an annex to the present report).

571. Finally, the Special Rapporteur, in the implementation of his mandate during the past year and in the drafting of the present report, took into account resolutions 1990/75 and 1990/76 adopted by the Commission on Human Rights at its forty-sixth session. The first requested the Special Rapporteur to pay attention in his report to the consequences of acts of violence

committed by irregular armed groups and drug traffickers upon the enjoyment of human rights. The second requested him to take urgent steps in conformity with his mandate to help prevent the occurrence of acts of intimidation or reprisals and to devote special attention to this in his report.

572. The mandate of the Special Rapporteur gradually has come to define its terms of reference through practice and the Special Rapporteur has dealt with situations which can be categorized as follows:

(a) Allegations of executions or deaths which might have taken place in the absence of safeguards, such as those set forth above, designed to protect the right to life. These allegations concern:

(i) Actual or imminent executions:

a. Without a trial;

b. With a trial but without safeguards designed to protect the rights of the defendant as provided for in articles 14 and 15 of the International Covenant on Civil and Political Rights;

(ii) Deaths which took place:

a. As a result of torture or cruel, inhuman or degrading treatment during detention;

b. As a result of abuse of force by police, military or any other governmental or quasi-governmental forces;

c. As a result of assault by paramilitary groups under official control;

d. As a result of assault by individuals or paramilitary groups not under official control, but acting with official collusion or connivance;

(b) In addition to the above, the Special Rapporteur has taken action concerning cases of death threats allegedly made by:

(i) Members of police, military or any other governmental or quasi-governmental forces;

(ii) Individuals or paramilitary groups under official control or acting with official collusion or connivance.

573. The Special Rapporteur has implemented his mandate by:

(a) Requesting information from the Governments concerned relating to allegations of summary or arbitrary executions;

(b) Issuing urgent appeals to the Governments concerned regarding alleged cases of imminent or threatened executions;

(c) Upon the invitation of the Government concerned, conducting on-site visits to certain of the countries with which he has had communications during the course of the execution of his mandate;

(d) Meetings with Government representatives.

574. The Special Rapporteur's methodology of work has developed in practice over the years. At present, the annual report of the Special Rapporteur reflects allegations transmitted to Governments in the form of urgent appeals by cable and communications by letter, together with information or observations supplied by Governments in response to the same. On-site visits conducted by the Special Rapporteur are reflected either within the annual report or as addenda thereto. A detailed description of allegations, information and Government views received during the course of the Special Rapporteur's visit, together with the Special Rapporteur's evaluation and recommendations are set forth therein.

575. The Special Rapporteur is aware of the limitations of the present methodology. Taking into account comments and suggestions received concerning ways and means of improving that methodology, the Special Rapporteur would like, preliminarily, to suggest a number of practical steps designed to improve it. Within the context of promoting a more sustained interaction with Governments, the Special Rapporteur intends to initiate specific follow-up procedures. These would include:

(a) Where replies are received from Governments, the Special Rapporteur will hold consultations with the Governments concerned, as well as with the sources of the information on which the allegations transmitted to the Governments were based. In resolutions 44/159 and 45/156, the General Assembly requested the Special Rapporteur "to promote an exchange of views between Governments and those who provided reliable information to the Special Rapporteur, where the Special Rapporteur considers that such exchanges of information might be useful". The Special Rapporteur indicated in his last report that he was willing to assume this task (E/CN.4/1990/22, para. 475); he reaffirms that willingness;

(b) Where replies are not received from Governments, the Special Rapporteur will continue to solicit Government replies and to monitor the development of the situation or cases in question.

IV. CONCLUSIONS AND RECOMMENDATIONS

A. Conclusions

576. With his present report, the Special Rapporteur has completed his ninth year since the establishment of his mandate in 1982. In reviewing past reports and information he has received, he concludes that summary or arbitrary executions still are prevalent in many parts of the world.

577. As the mandate of the Special Rapporteur has become better known, the amount of information received relating to summary and arbitrary executions rises. So too, have the number of communications to Governments. However, the Special Rapporteur is aware that the information which has reached him represents only a part of the entire phenomenon of summary and arbitrary executions. He hopes that the efforts and co-operation of various international and national organizations directed at establishing a better information network will continue to improve the transmission of information both in quantity and speed.

578. The Special Rapporteur wishes to draw the attention of the international community to the following situation:

1. Death threats

579. The year 1990 saw an increasing number of death threats. These were aimed particularly at human rights activists, trade unionists, teachers, lawyers, peasants and student leaders. In many cases they were carried out. These threats emanated from a variety of sources such as police, military, paramilitary groups and civil defence groups. As can be seen from this report, the practice of the Special Rapporteur has been in such cases to issue an urgent appeal to the Government to take appropriate measures to protect the life of the person so threatened. The Special Rapporteur is pleased to note that in a number of cases Governments have carried out an investigation leading to the capture of the person or group which issued the threat. In some cases, Governments have denied the allegations. In many cases, however, Governments have not responded to the urgent appeal and consequently, the Special Rapporteur is not aware if any action has been taken by the Government concerned.

2. Deaths in custody

580. Throughout 1990, there was an alarming increase in reports of people who had died in custody. In many cases, it was alleged that the deaths had resulted from torture. In other cases, deaths reportedly resulted from harsh prison conditions, or a lack of food, hygiene or medical attention.

581. In a few cases, a post-mortem report was issued and a magisterial inquiry led to those responsible being disciplined by suspension or dismissal. In many cases, however, such procedures were not followed and the bodies were not returned to the relatives when they so requested.

3. Executions following inadequate trial or judicial procedures

582. As can be seen from the report, a number of persons were executed pursuant to a conviction arrived at following inadequate judicial procedures. In some cases, the accused persons were not allowed to call witnesses. In others, legal representation was not allowed. In many cases, the summary procedure did not allow for the decision to be reviewed by a higher tribunal in accordance with the law. In at least one case, the higher tribunal was the same tribunal which rendered the initial decision.

4. Extra-legal executions within the context of situations of internal conflict

583. During the past year, the Special Rapporteur received information on incidents of killings by members of military units of members of opposition groups in the areas where the Government had lost effective control. In such areas, rival units of Government forces fought with each other or opposition groups fought with army units which were not effectively controlled by the army central command.

584. The Special Rapporteur wishes, in particular, to highlight the situation which prevailed in Liberia throughout much of 1990. Because of the lack of governmental authority within the country, the Special Rapporteur was unable to transmit an appeal concerning the situation. Thousands of civilians have reportedly died since January 1990, when rebel forces entered into Nimba county from outside Liberia and the Government forces retaliated against the local population. Killings notably increased after the rebel forces, called the National Patriotic Front of Liberia (NPFL), and its breakaway group entered Monrovia in July 1990. A large number of civilians were reportedly killed both by Government troops and by the rebel groups. It was alleged that the Government, by then, had lost effective control over the behaviour of its troops who resorted to summary killings of civilians mainly belonging to the Gio and Mano ethnic groups. In one such incident, on 29 July 1990, some 600 civilians including women and children who had sought refuge at a church in Monrovia were reportedly killed in a summary manner by Government troops. Rebel forces, on the other hand, allegedly killed prisoners, civilians in areas taken over by their troops and those fleeing Monrovia who were suspected of being sympathetic to the Government or those belonging to the Krahn ethnic group or the Mandingo community. By August 1990, when member States of the Economic Community of West African States (ECOWAS) sent troops (ECOMOG) in an attempt to achieve a cease-fire, the Government had lost its control over the country. Since the capture and the execution of President Samuel Doe by rebel forces in November 1990, the country had been without any governmental authoritiy and the armed conflict between rival rebel forces continued.

585. During the past year, the Special Rapporteur received information from various parts of the world indicating that a large number of lives were lost in internal armed conflicts. By analysing such information, the Special Rapporteur recognizes that violent armed conflicts are widespread and that the level of violence used both by Government forces and opposition groups

continues to escalate. The violent suppression of demonstrations or protests often involved indiscriminate and excessive use of lethal force, causing an unjustifiable loss of lives. Such incidents, together with acts of terrorism and retributive killings and assassination, have been attributed both to Government agents and to opposition groups.

586. In previous reports, the Special Rapporteur has drawn attention to intimidation, death threats, assassination attempts and various other forms of reprisal against individuals and human rights groups involved in cases or situations of summary or arbitrary executions. At its forty-sixth session, the Commission adopted resolution 1990/76, encouraging the Special Rapporteur to take more effective steps to protect individuals or groups who are the victims of reprisals because of their human rights activities. The Special Rapporteur welcomes the support voiced by the Commission to these human rights defenders and is endeavouring, within the limited resources available to him, to realize such protective measures.

587. In previous reports, the Special Rapporteur also has highlighted deaths which result from groups opposing the Government. At its forty-sixth session, the Commission adopted resolution 1990/75, expressing its deep concern at the adverse effects on the enjoyment of human rights of the crimes and atrocities committed in many countries by irregular armed groups, regardless of their origin, and drug traffickers, and requesting Special Rapporteurs to pay particular attention to the activities of irregular armed groups and drug traffickers in their forthcoming reports to the Commission. The Special Rapporteur drew the attention of the Commission to these problems particularly in the context of a more detailed study of country situations as a result of field missions and wishes to refer to his report on the visit to Colombia (11-20 October 1989) presented to the Commission at its last session (E/CN.4/1990/22/Add.1).

588. In this connection, the Special Rapporteur particularly would like to draw the attention of the international community to the increased occurrence of summary or arbitrary executions in situations of internal conflict. In addition to those who were killed in such situations, many others died from malnutrition and lack of adequate medical attention. One such situation, namely that of Liberia, is described in detail by the Special Rapporteur above. A number of other phenomena of summary or arbitrary executions cited by the Special Rapporteur in the present report occurred within the context of internal conflicts.

589. Unfortunately, it would appear as though such situations are likely to increase in number and, quite possibly, in intensity in forthcoming years. The Special Rapporteur is disposed of a limited number of mechanisms to implement his mandate: he is able to appeal to Governments to adhere to the principles embodied in existing international instruments and standards and, within the limits of human and material resources currently at his disposal, to follow-up such appeals; he is able to call upon the international community, in general, and upon individuals, non-governmental and intergovernmental organizations active in the field of human rights, in particular, to support the activities of the Special Rapporteur.

590. Especially in situations of internal conflict, the Special Rapporteur often has received replies from Governments asserting the non-responsibility of the latter for a case or situation on the grounds that the killing was not the result either of an abuse of force by governmental or quasi-governmental forces, or of groups or individuals acting under official control. Yet, as a legal and as a practical matter, the Special Rapporteur's only interlocutor is the Government of a particular State and he cannot but take up these matters with the Governments concerned.

591. The Special Rapporteur wishes to reiterate that where a Government's practice fails to meet the standards set forth in the Principles on effective prevention and investigation of extra-legal, arbitrary and summary executions (Economic and Social Council resolution 1989/65 of 24 May 1989), the Special Rapporteur will consider such failure as an indication of that Government's responsibility, even where Government officials are found not to be directly involved in the acts of summary or arbitrary execution (E/CN.4/1990/22, para. 463). The Special Rapporteur intends to invoke these Principles in his communications with Governments, as well as in any follow-up procedures undertaken in connection with particular situations or cases.

592. Despite the above, the Special Rapporteur recognizes that, in a number of instances, Governments are making an earnest effort to prevent the killings, carry out proper investigations and conduct legal proceedings (Economic and Social Council resolution 1989/65 of 24 May 1989). The Special Rapporteur praises these efforts and expects that they will continue. Nevertheless, in so far as the mandate of the Special Rapporteur can be understood only against the background of the need to ensure the inherent right of the person to life, he calls upon Governments to consider ways in which respect for that right can be maintained under all conditions, including those of internal conflict.

593. In this connection, the Special Rapporteur would welcome any initiatives undertaken by the Commission on Human Rights or by its Sub-Commission to formulate standards to which Governments and groups opposing Governments could refer during situations of armed conflict in order to lower the level of violence and the needless loss of life consequent thereupon. Given the practical experience which the Special Rapporteur has obtained during the course of his mandate, he would be willing to put such experience at the disposal of the Commission or the Sub-Commission whenever so requested.

594. In response to resolution 1990/58 of the Commission on Human Rights, the Special Rapporteur reiterates his conviction that the effectiveness of his mandate can be enhanced through the use of the advisory services and technical assistance programme operating within the Centre for Human Rights (E/CN.4/1990/22, paras. 466-468). He, therefore, will make recommendations in this regard wherever appropriate and especially within the context of country-specific situations and on the basis of information obtained during the course of <u>in situ</u> visits to countries.

595. Finally, the Special Rapporteur would like to express his gratitude for the support given to him by the secretariat of the United Nations Centre for Human Rights throughout the period during which he has served as the Special Rapporteur on summary or arbitrary executions. In order, however, to achieve

the above-mentioned goals, the Special Rapporteur would require increased human and material resources from the secretariat. The latter are necessary to enable the Special Rapporteur adequately to cope with the analysis of an ever-increasing flow of information relating to his mandate. In addition, the Special Rapporteur would require additional assistance in researching the issues relating to both the thematic and country-oriented aspects of his mandate and, in particular, the complex research and analytical responsibilities involved in the preparation of on-site visits to countries. It would, indeed, be desirable to obtain additional resources to enable the Special Rapporteur to conduct more on-site visits, together with the necessary follow-up thereto.

596. The mandate of the Special Rapporteur has developed markedly since its inception. The Special Rapporteur calls upon the Commission to lend the Special Rapporteur the support he needs to carry out a mandate whose obligations and meaning continue to evolve.

B. Recommendations

597. In view of these conclusions, the Special Rapporteur would like to make a number of recommendations, as follows.

598. He would like to recommend to Governments:

(a) To review national laws and regulations, as well as the practice of judicial authorities, with a view to securing effective implementation of the standards set forth in the preceding chapter and, in particular, the latest set of standards adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders;

(b) To make every effort to ensure that governmental or quasi-governmental forces, as well as individuals or paramilitary groups operating under official control adhere to the above-mentioned standards;

(c) Immediately to take measures to ensure the effective protection of persons and groups who play key roles in defending human rights and promoting social justice from intimidation, death threats, assassination attempts and various other forms of reprisal;

(d) To establish within the Government an independent body designed to improve co-operation between the Government and United Nations organs, bodies and specialized agencies, as well as with international, regional and national organizations concerned with matters of human rights;

(e) To include instruction in human rights in the curricula of secondary school and university students and, where possible, in the curriculum of primary school students;

(f) To include instruction in human rights law and practice in the training of all law enforcement and military personnel.

599. The Special Rapporteur wishes to recommend to international organizations:

(a) To emphasize the importance of the implementation of international human rights norms and principles as set forth in international human rights instruments and resolutions and, in particular, those of the General Assembly and the Economic and Social Council;

(b) To organize at the regional and national levels human rights seminars and training courses, utilizing the manual on the effective prevention and investigation of extra-legal, summary and arbitrary executions;

(c) To assist the secretariat of the United Nations Centre for Human Rights in meeting its ever-growing obligations in the monitoring of human rights protection and the granting of advisory services and technical assistance;

(d) To promote information activities in order to disseminate as widely as possible the latest achievements in the field of human rights with the aim of heightening awareness within the international community of ways in which it actively can protect and promote human rights.

Annex

BASIC PRINCIPLES ON THE USE OF FORCE AND FIREARMS BY LAW ENFORCEMENT OFFICIALS */

Whereas the work of law enforcement officials is a social service of great importance and there is, therefore, a need to maintain and, whenever necessary, to improve the working conditions and status of these officials,

Whereas a threat to the life and safety of law enforcement officials must be seen as a threat to the stability of society as a whole,

Whereas law enforcement officials have a vital role in the protection of the right to life, liberty and security of the person, as guaranteed in the Universal Declaration of Human Rights and reaffirmed in the International Covenant on Civil and Political Rights,

Whereas the Standard Minimum Rules for the Treatment of Prisoners provide for the circumstances in which prison officials may use force in the course of their duties,

Whereas article 3 of the Code of Conduct for Law Enforcement Officials provides that law enforcement officials may use force only when strictly necessary and to the extent required for the performance of their duty,

Whereas the preparatory meeting for the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Varenna, Italy, agreed on elements to be considered in the course of further work on restraints on the use of force and firearms by law enforcement officials,

Whereas the Seventh Congress, in its resolution 14, inter alia, emphasizes that the use of force and firearms by law enforcement officials should be commensurate with due respect for human rights,

Whereas the Economic and Social Council, in its resolution 1986/10, section IX, of 21 May 1986, invited member States to pay particular attention in the implementation of the Code to the use of force and firearms by law enforcement officials, and the General Assembly, in its resolution 41/149 of 4 December 1986, inter alia, welcomed this recommendation made by the Council,

Whereas it is appropriate that, with due regard to their personal safety, consideration be given to the role of law enforcement officials in relation to the administration of justice, to the protection of the right to life, liberty and security of the person, to their responsibility to maintain public safety and social peace and to the importance of their qualifications, training and conduct,

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*/ The text below is that adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders (Havana, Cuba, 27 August-7 September 1990).

The basic principles set forth below, which have been formulated to assist member States in their task of ensuring and promoting the proper role of law enforcement officials, should be taken into account and respected by Governments within the framework of their national legislation and practice, and be brought to the attention of law enforcement officials as well as other persons, such as judges, prosecutors, lawyers, members of the executive branch and the legislature, and the public.

General provisions

1. Governments and law enforcement agencies shall adopt and implement rules and regulations on the use of force and firearms against persons by law enforcement officials. In developing such rules and regulations, Governments and law enforcement agencies shall keep the ethical issues associated with the use of force and firearms constantly under review.

2. Governments and law enforcement agencies should develop a range of means as broad as possible and equip law enforcement officials with various types of weapons and ammunition that would allow for a differentiated use of force and firearms. These should include the development of non-lethal incapacitating weapons for use in appropriate situations, with a view to increasingly restraining the application of means capable of causing death or injury to persons. For the same purpose, it should also be possible for law enforcement officials to be equipped with self-defensive equipment such as shields, helmets, bullet-proof vests and bullet-proof means of transportation, in order to decrease the need to use weapons of any kind.

3. The development and deployment of non-lethal incapacitating weapons should be carefully evaluated in order to minimize the risk of endangering uninvolved persons, and the use of such weapons should be carefully controlled.

4. Law enforcement officials, in carrying out their duty, shall, as far as possible, apply non-violent means before resorting to the use of force and firearms. They may use force and firearms only if other means remain ineffective or without any promise of achieving the intended result.

5. Whenever the lawful use of force and firearms is unavoidable, law enforcement officials shall:

(a) Exercise restraint in such use and act in proportion to the seriousness of the offence and the legitimate objective to be achieved;

(b) Minimize damage and injury, and respect and preserve human life;

(c) Ensure that assistance and medical aid are rendered to any injured or affected persons at the earliest possible moment;

(d) Ensure that relatives or close friends of the injured or affected person are notified at the earliest possible moment.

6. Where injury or death is caused by the use of force and firearms by law enforcement officials, they shall report the incident promptly to their superiors, in accordance with principle 22.

7. Governments shall ensure that arbitrary or abusive use of force and firearms by law enforcement officials is punished as a criminal offence under their law.

8. Exceptional circumstances such as internal political instability or any other public emergency may not be invoked to justify any departure from these basic principles.

Special provisions

9. Law enforcement officials shall not use firearms against persons except in self-defence or defence of others against the imminent threat of death or serious injury, to prevent the perpetration of a particularly serious crime involving grave threat to life, to arrest a person presenting such a danger and resisting their authority, or to prevent his or her escape, and only when less extreme means are insufficient to achieve these objectives. In any event, intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life.

10. In the circumstances provided for under principle 9, law enforcement officials shall identify themselves as such and give a clear warning of their intent to use firearms, with sufficient time for the warning to be observed, unless to do so would unduly place the law enforcement officials at risk or would create a risk of death or serious harm to other persons, or would be clearly inappropriate or pointless in the circumstances of the incident.

11. Rules and regulations on the use of firearms by law enforcement officials should include guidelines that:

(a) Specify the circumstances under which law enforcement officials are authorized to carry firearms and prescribe the types of firearms and ammunition permitted;

(b) Ensure that firearms are used only in appropriate circumstances and in a manner likely to decrease the risk of unnecessary harm;

(c) Prohibit the use of those firearms and ammunition that cause unwarranted injury or present an unwarranted risk;

(d) Regulate the control, storage and issuing of firearms, including procedures for ensuring that law enforcement officials are accountable for the firearms and ammunition issued to them;

(e) Provide for warnings to be given, if appropriate, when firearms are to be discharged;

(f) Provide for a system of reporting whenever law enforcement officials use firearms in the performance of their duty.

Policing unlawful assemblies

12. As everyone is allowed to participate in lawful and peaceful assemblies, in accordance with the principles embodied in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, Governments and law enforcement agencies and officials shall recognize that force and firearms may be used only in accordance with principles 13 and 14.

13. In the dispersal of assemblies that are unlawful but non-violent, law enforcement officials shall avoid the use of force or, where that is not practicable, shall restrict such force to the minimum extent necessary.

14. In the dispersal of violent assemblies, law enforcement officials may use firearms only when less dangerous means are not practicable and only to the minimum extent necessary. Law enforcement officials shall not use firearms in such cases, except under the conditions stipulated in principle 9.

Policing persons in custody or detention

15. Law enforcement officials, in their relations with persons in custody or detention, shall not use force, except when strictly necessary for the maintenance of security and order within the institution, or when personal safety is threatened.

16. Law enforcement officials, in their relations with persons in custody or detention, shall not use firearms, except in self-defence or in the defence of others against the immediate threat of death or serious injury, or when strictly necessary to prevent the escape of a person in custody or detention presenting the danger referred to in principle 9.

17. The preceding principles are without prejudice to the rights, duties and responsibilities of prison officials, as set out in the Standard Minimum Rules for the Treatment of Prisoners, particularly rules 33, 34 and 54.

Qualifications, training and counselling

18. Governments and law enforcement agencies shall ensure that all law enforcement officials are selected by proper screening procedures, have appropriate moral, psychological and physical qualities for the effective exercise of their functions and receive continuous and thorough professional training. Their continued fitness to perform these functions should be subject to periodic review.

19. Governments and law enforcement agencies shall ensure that all law enforcement officials are provided with training and are tested in accordance with appropriate proficiency standards in the use of force. Those law enforcement officials who are required to carry firearms should be authorized to do so only upon completion of special training in their use.

20. In the training of law enforcement officials, Governments and law enforcement agencies shall give special attention to issues of police ethics and human rights, especially in the investigative process, to alternatives to the use of force and firearms, including the peaceful settlement of conflicts,

the understanding of crowd behaviour, and the methods of persuasion, negotiation and mediation, as well as to technical means, with a view to limiting the use of force and firearms. Law enforcement agencies should review their training programmes and operational procedures in the light of particular incidents.

21. Governments and law enforcement agencies shall make stress counselling available to law enforcement officials who are involved in situations where force and firearms are used.

Reporting and review procedures

22. Governments and law enforcement agencies shall establish effective reporting and review procedures for all incidents referred to in principles 6 and 11 (f). For incidents reported pursuant to these principles, Governments and law enforcement agencies shall ensure that an effective review process is available and that independent administrative or prosecutorial authorities are in a position to exercise jurisdiction in appropriate circumstances. In cases of death and serious injury or other grave consequences, a detailed report shall be sent promptly to the competent authorities responsible for administrative review and judicial control.

23. Persons affected by the use of force and firearms or their legal representatives shall have access to an independent process, including a judicial process. In the event of the death of such persons, this provision shall apply to their dependants accordingly.

24. Governments and law enforcement agencies shall ensure that superior officers are held responsible if they know, or should have known, that law enforcement officials under their command are resorting, or have resorted, to the unlawful use of force and firearms, and they did not take all measures in their power to prevent, suppress or report such use.

25. Governments and law enforcement agencies shall ensure that no criminal or disciplinary sanction is imposed on law enforcement officials who, in compliance with the Code of Conduct for Law Enforcement Officials and these basic principles, refuse to carry out an order to use force and firearms, or who report such use by other officials.

26. Obedience to superior orders shall be no defence if law enforcement officials knew that an order to use force and firearms resulting in the death or serious injury of a person was manifestly unlawful and had a reasonable opportunity to refuse to follow it. In any case, responsibility also rests on the superiors who gave the unlawful orders.